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Administrative

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The Iowa Administrative Code Supplement is published biweekly pursuant to Iowa Code section 17A.6. The Supplement contains replacement chapters to be inserted in the loose-leaf Iowa Administrative Code (IAC) according to instructions included with each Supplement. The replacement chapters incorporate rule changes which have been adopted by the agencies and filed with the Administrative Rules Coordinator as provided in Iowa Code sections 7.17 and 17A.4 to 17A.6. To determine the specific changes in the rules, refer to the Iowa Administrative Bulletin bearing the same publication date.

In addition to the changes adopted by agencies, the replacement chapters may reflect objection to a rule or a portion of a rule filed by the Administrative Rules Review Committee (ARRC), the Governor, or the Attorney General pursuant to Iowa Code section 17A.4(6); an effective date delay imposed by the ARRC pursuant to section 17A.4(7) or 17A.8(9); rescission of a rule by the Governor pursuant to section 17A.4(8); or nullification of a rule by the General Assembly pursuant to Article III, section 40, of the Constitution of the State of Iowa.

The Supplement may also contain replacement pages for the IAC Index or the Uniform Rules on Agency Procedure.

INSTRUCTIONS

FOR UPDATING THE

IOWA ADMINISTRATIVE CODE

Agency names and numbers in bold below correspond to the divider tabs in the IAC binders. New and replacement chapters included in this Supplement are listed below. Carefully remove and insert chapters accordingly.

Editor's telephone (515)281-3355 or (515)242-6873

Agriculture and Land Stewardship Department[21]

Replace Chapter 76

Human Services Department[441]

Replace Analysis

Replace Chapter 25

Replace Chapter 151

Inspections and Appeals Department[481]

Replace Analysis

Replace Chapter 67

Replace Chapters 69 and 70

Professional Licensure Division[645]

Replace Chapter 327

Labor Services Division[875]

Replace Analysis

Replace Chapters 61 to 63

Replace Chapters 72 and 73

CHAPTER 76
MEAT AND POULTRY INSPECTION
[Prior to 7/27/88 see Agriculture Department 30—Ch 43]

21—76.1(189A) Federal Wholesome Meat Act regulations adopted. Part 301 of Title 9, Chapter III, of the Code of Federal Regulations, revised as of January 1, 2016, is hereby adopted in its entirety by reference; and in addition thereto, the following subsections shall be expanded to include:

1. Sec. 301.2(a) therein defining the term “Act” shall include the Iowa meat and poultry inspection Act, Iowa Code chapter 189A.
2. Sec. 301.2(b) therein defining the term “department” shall include the Iowa department of agriculture and land stewardship.
3. Sec. 301.2(c) therein defining the term “secretary” shall include the secretary of agriculture of the state of Iowa.
4. Sec. 301.2(e) therein defining the term “administrator” shall include the supervisor of the Iowa meat and poultry inspection service or any officer or employee of the Iowa department of agriculture and land stewardship.
5. Sec. 301.2(t) therein defining the term “commerce” shall include intrastate commerce in the state of Iowa.
6. Sec. 301.2(u) therein defining the term “United States” shall include the state of Iowa.

[ARC 9012B, IAB 8/25/10, effective 9/29/10; ARC 0733C, IAB 5/15/13, effective 6/19/13; ARC 2439C, IAB 3/16/16, effective 4/20/16]

21—76.2(189A) Federal Wholesome Meat Act regulations adopted. Part 303, Part 304, Part 305, Part 306, Parts 308 through 320, Part 329, Part 412, Part 416, Part 417, Part 418, Part 424, Part 430, Part 441 and Part 442 of Title 9, Chapter III, of the Code of Federal Regulations, revised as of January 1, 2016, are hereby adopted in their entirety by reference. Part 307 except Sections 307.5 and 307.6 and Part 325 except Sections 325.3 and 325.12 of Title 9, Chapter III, of the Code of Federal Regulations, revised as of January 1, 2016, are hereby adopted in their entirety by reference. Part 500 of Title 9, Chapter III, of the Code of Federal Regulations, revised as of January 1, 2016, is adopted by reference, except that references in Sections 500.5, 500.6, 500.7, and 500.8 to the federal Uniform Rules of Practice are not adopted.

This rule is intended to implement Iowa Code sections 189A.3 and 189A.7(8).

[ARC 9012B, IAB 8/25/10, effective 9/29/10; ARC 0733C, IAB 5/15/13, effective 6/19/13; ARC 1546C, IAB 7/23/14, effective 8/27/14; ARC 2439C, IAB 3/16/16, effective 4/20/16]

21—76.3(189A) Federal Poultry Products Inspection Act regulations adopted. Part 381, Title 9, Chapter III, of the Code of Federal Regulations, revised as of January 1, 2016, is hereby adopted in its entirety with the following exceptions: Sections 381.96, 381.97, 381.99, 381.101, 381.102, 381.104, 381.105, 381.106, 381.107, and 381.128, Subpart R, Subpart T, Subpart V, and Subpart W; and in addition thereto, the following subsections shall be expanded to include:

1. Sec. 381.1(b)(2) therein defining the term “Act” shall include the Iowa meat and poultry inspection Act, Iowa Code chapter 189A.
2. Sec. 381.1(b)(3) therein defining the term “administrator” shall include the supervisor of the Iowa meat and poultry inspection service, or any officer or employee of the Iowa department of agriculture and land stewardship.
3. Sec. 381.1(b)(10) therein defining the term “commerce” shall include intrastate commerce in the state of Iowa.
4. Sec. 381.1(b) therein defining the term “department” shall include the Iowa department of agriculture and land stewardship.
5. Sec. 381.1(b)(47) therein defining the term “secretary” shall include the secretary of agriculture of the state of Iowa.

6. Sec. 381.1(b)(53) therein defining the term “United States” shall include the state of Iowa. [ARC 9012B, IAB 8/25/10, effective 9/29/10; ARC 0733C, IAB 5/15/13, effective 6/19/13; ARC 2439C, IAB 3/16/16, effective 4/20/16]

These rules are intended to implement Iowa Code sections 189A.3 and 189A.7(8).

21—76.4(189A) Inspection required. Every establishment except as provided in Section 303.1(a), (b), (c) and (d) of Title 9, Chapter III, Subchapter A, of the Code of Federal Regulations, revised as of January 1, 2016, in which slaughter of livestock or poultry, or the preparation of livestock products or poultry products is maintained for transportation or sale in commerce, shall be subject to the inspection and other requirements of those parts of Title 9, Chapter III, Subchapter A, of the Code of Federal Regulations, revised as of January 1, 2016, enumerated in rules 21—76.1(189A), 21—76.2(189A) and 21—76.3(189A).

This rule is intended to implement Iowa Code sections 189A.4 and 189A.5. [ARC 9012B, IAB 8/25/10, effective 9/29/10; ARC 0733C, IAB 5/15/13, effective 6/19/13; ARC 2439C, IAB 3/16/16, effective 4/20/16]

21—76.5(189A) Custom/exempt facilities sanitation standard operating procedures. Iowa inspected custom/exempt facilities shall develop and implement a sanitation standard operating procedure (SSOP) in a manner consistent with Section 416.12, Title 9, Chapter III, Code of Federal Regulations.

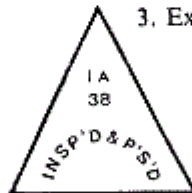
21—76.6(189A) Forms and marks. Whenever an official form is designated by federal regulation, the appropriate Iowa form will be substituted and whenever an official mark is designated, the following official Iowa marks will be substituted:

1. IOWA INSP'D AND
CONDEMNED

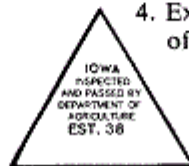
2.



3. Exotic Carcass Brand



4. Exotic product label mark
of inspection



This rule is intended to implement Iowa Code section 189A.5(2).

21—76.7(189A,167) Registration. Every person engaged in business in or for intrastate commerce as a broker, renderer, animal food manufacturer, or wholesaler or public warehouse of livestock or poultry products, or engaged in the business of buying, selling or transporting in intrastate commerce any dead, dying, disabled or diseased livestock or poultry or parts of the carcasses of such animals, including poultry, that died otherwise than by slaughter, shall register with the meat and poultry section, department of agriculture and land stewardship, indicating the name and address of each place of business and all trade names.

This rule is intended to implement Iowa Code section 189A.7(7).

21—76.8(189A,167) Dead, dying, disabled or diseased animals. Persons shall not engage in the business of buying, selling, transporting in intrastate commerce, dead, dying, disabled or diseased animals, or any parts of the carcasses of any animal, unless they have been licensed for the purpose of disposing of the bodies of dead animals pursuant to Iowa Code section 167.2. All persons so engaged are subject to the provisions of Iowa Code chapter 167 and regulations of 21—Chapter 61, “Dead Animal Disposal,” Iowa Administrative Code.

76.8(1) All rendering plants engaged in processing fallen or dead animals into pet food and pet food processing plants shall be inspected by the meat and poultry section in accordance with Iowa Code chapter 167 before registration is approved.

76.8(2) The plant shall engage the services of a licensed veterinarian, approved by the department, to inspect carcasses for the presence of communicable disease or harmful contamination or adulteration and evidence of decomposition. Any of these conditions shall be cause for the carcass to be condemned as unfit for processing into pet animal food.

All compensation for the veterinarian employed by the rendering plant and pet animal food processing plants processing inedible meat and carcass parts for pet food shall be paid by the plant.

76.8(3) Fallen or dead animals which are recovered and transported to the processing plant shall be immediately skinned and eviscerated, except the lungs, heart, kidneys and liver, which shall be left attached to the carcass, and the carcasses shall be stored in a chill room with attached viscera until inspected and approved by a veterinary inspector. The stomach or stomachs, together with the entire intestinal tract, shall be tagged immediately with serially numbered tags and stamped with the word “inedible.” The word “inedible” shall be not less than one-half inch high. Condemned carcasses shall be deeply slashed on the round, rump, loin and shoulder, denatured with a ten percent solution of cresylic acid or other decharacterizing agent approved by the department of agriculture and land stewardship and removed to a rendering plant prior to the close of the working day.

76.8(4) The department shall inspect each place registered under Iowa Code chapter 189A or licensed under Iowa Code chapter 167 at least once a year, and as often as it deems necessary and shall see that the registrant conducts the business in conformity to both chapters and these rules.

76.8(5) Rendering plants and pet animal food processing plants may process fallen or dead animals into pet food where the animals are recovered and transported to a processing plant within a reasonable time following the death of an animal and before decomposition occurs.

76.8(6) Processing facilities, when located in or operated in conjunction with a rendering plant, shall be in a separate area equipped and used only for skinning, eviscerating, deboning, grinding, decharacterizing, packaging and labeling of inedible meat and carcass parts to be used in pet animal food. Rendering facilities approved by the department shall be available to process materials not suitable for pet animal food.

76.8(7) These rules shall also govern the collection, transportation and processing of other inedible material such as lungs, livers, hearts, spleens, poultry and poultry parts obtained from slaughterhouses, packing plants or other sources, to be used in the processing and manufacture of pet animal food.

This rule is intended to implement Iowa Code sections 189A.8, 167.5 and 167.14.

21—76.9(189A) Denaturing and identification of livestock or poultry products not intended for use as human food. No person shall buy, sell, transport, or offer for sale or transportation, or receive for

transportation, in intrastate commerce any livestock products or poultry products which are not intended for use as human food unless they are denatured or otherwise identified.

76.9(1) All inedible meat and carcass parts shall be adequately decharacterized with charcoal or with other suitable agent acceptable to the Iowa department of agriculture and land stewardship. Inedible material shall be cut into pieces or chunks no more than four inches in any dimension. Following decharacterization, inedible meat and carcass parts shall be packed in suitable containers approved by the department.

76.9(2) Decharacterizing shall be done to an extent acceptable to the department. Decharacterization shall be done in such a manner that each piece of material shall be decharacterized so as to preclude its being used for, or mistaken for, product for human consumption.

76.9(3) All containers for decharacterized inedible meat or carcass parts shall be plainly marked with the word “inedible” in letters no less than two inches high.

76.9(4) Decharacterized inedible meat and carcass parts shall be frozen or held at a temperature of 40°F or less in the processing plant or during transportation to the final processor.

This rule is intended to implement Iowa Code section 189A.8.

21—76.10(189A,167) Transportation of decharacterized inedible meat or carcass parts. No person engaged in the business of buying, selling or transporting in intrastate commerce, dead, dying, disabled or diseased animals, or any parts of the carcasses of any animals that died otherwise than by slaughter, or any other inedible product not intended for use as human food, shall buy, sell, transport, offer for sale or transportation or receive for transportation in such commerce, any dead, dying, disabled or diseased livestock or poultry or the products of any such animals that died otherwise than by slaughter, or any other inedible product not intended for use as human food, unless such transaction or transportation is made in accordance with Iowa Code chapters 167 and 189A and 21—Chapters 61 and 76.

76.10(1) All carcasses and other inedible material received for processing, and all decharacterized inedible material shipped from the plant, shall be transported and delivered in closed conveyances. The conveyance shall be constructed in such a manner as to prevent the spillage of liquids and material and in accordance with rules 21—61.15(167) and 61.16(167), Iowa Administrative Code.

76.10(2) Rendering plants and pet animal food processing plants outside the state of Iowa, from which decharacterized inedible meat or carcass parts are shipped into the state of Iowa, shall be certified by the proper public officials of the state of origin that the processing plants meet at least the minimum standards as set forth in these rules.

This rule is intended to implement Iowa Code sections 189A.8 and 167.15.

21—76.11(189A) Records. Records which fully and correctly disclose all transactions involved in their business shall be kept and retained for a period of no less than two years by the following classes of persons:

Any person that engages in intrastate commerce in the business of slaughtering any livestock or poultry, or preparing, freezing, packaging or labeling, buying or selling, transporting or storing any livestock or poultry products for human or animal food;

Any person that engages in intrastate commerce in business as a renderer or in the business of buying, selling or transporting any dead, dying, disabled or diseased carcasses of such animals or parts of carcasses of any such animals, including poultry, that died otherwise than by slaughter.

76.11(1) All such persons shall afford the secretary and authorized representatives access to such business and opportunity at all reasonable times to examine the facilities, inventory and records thereof, to copy the records and to take reasonable samples of the inventory, upon payment of the reasonable value therefor.

76.11(2) Records shall include the following:

a. The name and address of the owner, the approximate time of death of the animal and the date the animal was received for processing shall be recorded for all animals to be inspected for processing into pet animal food.

- b.* The number of cartons or containers and the approximate weight of other material received from slaughterhouses, packing plants and other sources to be used in the processing of pet animal food.
- c.* The number of cartons, packages or containers of processed inedible meat and carcass parts and the weight of each carton stored.
- d.* Date of shipment, number of containers or boxes, weight of each shipment and name and address of the consignee of all inedible and decharacterized material shipped from the plant.

This rule is intended to implement Iowa Code section 189A.4(7).

21—76.12(189A) Movement of meat products into the state. Rescinded IAB 2/26/97, effective 4/2/97.

21—76.13(189A) Voluntary inspections of exotic animals. Every person wishing to obtain voluntary inspection of exotic animals shall comply with the regulations adopted in this rule.

Part 352 of Title 9, Chapter III, of the Code of Federal Regulations, revised as of January 1, 2016, is hereby adopted in its entirety by reference.

This rule is intended to implement Iowa Code chapter 189A.

[ARC 9012B, IAB 8/25/10, effective 9/29/10; ARC 0733C, IAB 5/15/13, effective 6/19/13; ARC 2439C, IAB 3/16/16, effective 4/20/16]

21—76.14(189A) Federal Wholesome Meat Act regulations adopted for the regulation of farm deer.

1. All federal regulations adopted in 21—76.1(189A).
2. All federal regulations adopted in 21—76.2(189A), except Part 303 and Part 307.4(c) of Title 9, Chapter III, of the Code of Federal Regulations, revised as of January 1, 2016.

This rule is intended to implement Iowa Code chapters 170 and 189A.

[ARC 9012B, IAB 8/25/10, effective 9/29/10; ARC 0733C, IAB 5/15/13, effective 6/19/13; ARC 2439C, IAB 3/16/16, effective 4/20/16]

21—76.15(189A) Fees. Rescinded IAB 7/21/04, effective 7/2/04.

[Filed 7/12/66; amended 11/14/66, 9/26/67, 2/20/71, 4/20/72, 7/30/73]

[Filed 4/13/76, Notice 2/9/76—published 5/3/76, effective 6/7/76]

[Filed 6/29/76, Notice 5/17/76—published 7/12/76, effective 8/17/76]

[Filed without Notice 8/19/76—published 9/8/76, effective 10/13/76]

[Filed 2/15/83, Notice 1/5/83—published 3/2/83, effective 4/6/83]

[Filed 1/13/84, Notice 12/7/83—published 2/1/84, effective 3/7/84]

[Filed emergency 5/22/85—published 6/19/85, effective 5/22/85]

[Filed 7/25/85, Notice 6/19/85—published 8/14/85, effective 9/18/85]

[Filed emergency 7/8/88 after Notice 6/1/88—published 7/27/88, effective 7/8/88]

[Filed emergency 10/9/91—published 10/30/91, effective 10/9/91]

[Filed 11/8/91, Notice 9/18/91—published 11/27/91, effective 1/1/92]

[Filed 11/3/95, Notice 9/27/95—published 11/22/95, effective 12/27/95]

[Filed 2/7/97, Notice 12/4/96—published 2/26/97, effective 4/2/97]

[Filed 12/24/98, Notice 11/4/98—published 1/13/99, effective 2/17/99]

[Filed 3/30/01, Notice 1/24/01—published 4/18/01, effective 5/23/01]

[Filed emergency 9/5/03—published 10/1/03, effective 9/5/03]

[Filed 11/7/03, Notice 10/1/03—published 11/26/03, effective 12/31/03]

[Filed emergency 7/2/04—published 7/21/04, effective 7/2/04]

[Filed 8/11/04, Notice 5/26/04—published 9/1/04, effective 10/6/04]

[Filed 10/2/08, Notice 8/13/08—published 10/22/08, effective 11/26/08]

[Filed ARC 9012B (Notice ARC 8842B, IAB 6/16/10), IAB 8/25/10, effective 9/29/10]

[Filed ARC 0733C (Notice ARC 0634C, IAB 3/6/13), IAB 5/15/13, effective 6/19/13]

[Filed ARC 1546C (Notice ARC 1468C, IAB 5/28/14), IAB 7/23/14, effective 8/27/14]

[Filed ARC 2439C (Notice ARC 2369C, IAB 1/20/16), IAB 3/16/16, effective 4/20/16]

HUMAN SERVICES DEPARTMENT[441]

Rules transferred from Social Services Department[770] to Human Services Department[498],
see 1983 Iowa Acts, Senate File 464, effective July 1, 1983.
Rules transferred from agency number [498] to [441] to conform with the reorganization
numbering scheme in general, IAC Supp. 2/11/87.

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CHAPTER 25 DISABILITY SERVICES MANAGEMENT

PREAMBLE

This chapter provides for definitions of regional core services, access and practice standards, reporting of regional expenditures, development and submission of regional management plans, data collection, applications for funding as they relate to regional service systems for individuals with mental illness, intellectual disabilities, developmental disabilities, or brain injury, and submission of data for Medicaid offset calculations.

[ARC 0576C, IAB 2/6/13, effective 1/8/13; ARC 0735C, IAB 5/15/13, effective 8/1/13; ARC 1096C, IAB 10/16/13, effective 11/20/13; ARC 1173C, IAB 11/13/13, effective 1/1/14; ARC 1671C, IAB 10/15/14, effective 9/25/14]

DIVISION I REGIONAL CORE SERVICES

441—25.1(331) Definitions.

“Assertive community treatment” means a program of comprehensive outpatient services provided in the community directed toward the amelioration of symptoms and the rehabilitation of behavioral, functional, and social deficits of individuals with severe and persistent mental disorders and individuals with complex symptomatology who require multiple mental health and supportive services to live in the community consistent with evidence-based practice standards published by the Substance Abuse and Mental Health Services Administration.

“Assessment and evaluation” means the clinical review by a mental health professional of the current functioning of the individual using the service in regard to the individual’s situation, needs, strengths, abilities, desires and goals to determine the appropriate level of care.

“Case management” means service provided by a case manager who assists individuals in gaining access to needed medical, social, educational, and other services through assessment, development of a care plan, referral, monitoring and follow-up using a strengths-based service approach that helps individuals achieve specific desired outcomes leading to a healthy self-reliance and interdependence with their community.

“Case manager” means a person who has completed specified and required training to provide case management through the medical assistance program or the Iowa Behavioral Health Care Plan.

“Community-based crisis intervention service” means a program designed to stabilize an acute crisis episode and to restore an individual and family to their pre-crisis level of functioning. Crisis services are available 24 hours a day, 365 days a year, including telephone and walk-in crisis service and crisis care coordination.

“Crisis care coordination” means a service provided during an acute crisis episode that facilitates working together to organize a plan and service transition programing, including working agreements with inpatient behavioral health units and other community programs. The service shall include referrals to mental health services and other supports necessary to maintain community-based living capacity, including case management as defined herein.

“Crisis evaluation” means the process used with an individual to collect information related to the individual’s history and needs, strengths, and abilities in order to determine appropriate services or referral during an acute crisis episode.

“Day habilitation” means services that assist or support the individual in developing or maintaining life skills and community integration. Services shall enable or enhance the individual’s functioning, physical and emotional health and development, language and communication development, cognitive functioning, socialization and community integration, functional skill development, behavior management, responsibility and self-direction, daily living activities, self-advocacy skills, or mobility.

“Emergency care” means the same as defined in rule 441—88.21(249A).

“Evidence-based services” means using interventions that have been rigorously tested, have yielded consistent, replicable results, and have proven safe, beneficial and effective and have established standards for fidelity of the practice.

“Family psychoeducation” means services including the provision of emotional support, education, resources during periods of crisis, and problem-solving skills consistent with evidence-based practice standards published by the Substance Abuse and Mental Health Services Administration.

“Family support” means services provided by a family support peer specialist that assist the family of an individual to live successfully in the family or community including, but not limited to, education and information, individual advocacy, family support groups, and crisis response.

“Family support peer specialist” means a parent, primary caregiver, foster parent or family member of an individual who has successfully completed standardized training to provide family support through the medical assistance program or the Iowa Behavioral Health Care Plan.

“Group supported employment” means the job and training activities in business and industry settings for groups of no more than eight workers with disabilities. Group settings include enclaves, mobile crews, and other business-based workgroups employing small groups of workers with disabilities in integrated, sustained, paid employment.

“Health homes” means a service model that facilitates access to an interdisciplinary array of medical care, behavioral health care, and community-based social services and supports for both children and adults with chronic conditions. Services may include comprehensive care management; care coordination and health promotion; comprehensive transitional care from inpatient to other settings, including appropriate follow-up; individual and family support, which includes authorized representatives; referral to community and social support services, if relevant; and the use of health information technology to link services, as feasible and appropriate.

“Home and vehicle modification” means a service that provides physical modifications to the home or vehicle that directly address the medical health or remedial needs of the individual that are necessary to provide for the health, welfare, and safety of the member and to increase or maintain independence.

“Home health aide services” means unskilled medical services which provide direct personal care. This service may include assistance with activities of daily living, such as helping the recipient to bathe, get in and out of bed, care for hair and teeth, exercise, and take medications specifically ordered by the physician.

“Illness management and recovery” means a broad set of strategies designed to help individuals with serious mental illness collaborate with professionals, reduce the individuals’ susceptibility to the illness, and cope effectively with the individuals’ symptoms consistent with evidence-based practice standards published by the Substance Abuse and Mental Health Services Administration.

“Individual” means any person seeking or receiving services in a regional service system.

“Individual supported employment” means services including ongoing supports needed by an individual to acquire and maintain a job in the integrated workforce at or above the state’s minimum wage. The outcome of this service is sustained paid employment that meets personal and career goals.

“Integrated treatment for co-occurring substance abuse and mental health disorders” means effective dual diagnosis programs that combine mental health and substance abuse interventions tailored for the complex needs of individuals with co-morbid disorders. Critical components of effective programs include a comprehensive, long-term, staged approach to recovery; assertive outreach; motivational interviews; provision of help to individuals in acquiring skills and supports to manage both illnesses and pursue functional goals with cultural sensitivity and competence consistent with evidence-based practice standards published by the Substance Abuse and Mental Health Services Administration.

“Job development” means services that assist individuals in preparing for, securing and maintaining gainful, competitive employment. Employment shall be integrated into normalized work settings, shall provide pay of at least minimum wage, and shall be based on the individual’s skills, preferences, abilities, and talents. Services assist individuals seeking employment to develop or re-establish skills, attitudes, personal characteristics, interpersonal skills, work behaviors, and functional capacities to achieve positive employment outcomes.

“Medication management” means services provided directly to or on behalf of the individual by a licensed professional as authorized by Iowa law including, but not limited to, monitoring effectiveness of and compliance with a medication regimen; coordination with care providers; investigating potentially

negative or unintended psychopharmacologic or medical interactions; reviewing laboratory reports; and activities pursuant to licensed prescriber orders.

“Medication prescribing” means services with the individual present provided by an appropriately licensed professional as authorized by Iowa law including, but not limited to, determining how the medication is affecting the individual; determining any drug interactions or adverse drug effects on the individual; determining the proper dosage level; and prescribing medication for the individual for the period of time before the individual is seen again.

“Mental health outpatient therapy” means the same as defined in Iowa Code section 230A.106(2)“a.”

“Mental health professional” means the same as defined in Iowa Code section 228.1(6).

“Peer support services” means a program provided by a peer support specialist including but not limited to education and information, individual advocacy, family support groups, crisis response, and respite to assist individuals in achieving stability in the community.

“Peer support specialist” means an individual who has experienced a severe and persistent mental illness and who has successfully completed standardized training to provide peer support services through the medical assistance program or the Iowa Behavioral Health Care Plan.

“Permanent supportive housing” means voluntary, flexible supports to help individuals with psychiatric disabilities choose, get, and keep housing that is decent, safe, affordable, and integrated into the community. Tenants have access to an array of services that help them keep their housing, such as case management, assistance with daily activities, conflict resolution, and crisis response consistent with evidence-based practice standards published by the Substance Abuse and Mental Health Services Administration.

“Personal emergency response system” means an electronic device connected to a 24-hour staffed system which allows the individual to access assistance in the event of an emergency.

“Prevocational services” means services that focus on developing generalized skills that prepare an individual for employment. Prevocational training topics include but are not limited to attendance, safety skills, following directions, and staying on task.

“Reasonably close proximity” means a distance of 100 miles or less or a driving distance of two hours or less from the county seat or county seats of the region.

“Respite services” means a temporary period of relief and support for individuals and their families provided in a variety of settings. The intent is to provide a safe environment with staff assistance for individuals who lack an adequate support system to address current issues related to a disability. Respite may be provided for a defined period of time; respite is either planned or provided in response to a crisis.

“Routine care” means the same as defined in rule 441—88.21(249A).

“Rural” means any area that is not defined as urban.

“Strengths-based case management” means a service that focuses on possibilities rather than problems and strives to identify and develop strengths to assist individuals reach their goals leading to a healthy self-reliance and interdependence with their community. Identifiable strengths and resources include family, cultural, spiritual, and other types of social and community-based assets and networks.

“Supported community living services” means services as defined in Iowa Code section 225C.21(1).

“Supported employment” means an approach to helping individuals participate as much as possible in competitive work in integrated work settings that are consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individuals. Services are targeted for individuals with significant disabilities for whom competitive employment has not traditionally occurred; or for whom competitive employment has been interrupted or intermittent as a result of a significant disability including either individual or group supported employment, or both, consistent with evidence-based practice standards published by the Substance Abuse and Mental Health Services Administration.

“Telephone crisis service” means a program that operates a crisis hotline either directly or through a contract. The service shall be available 24 hours a day and seven days a week including, but not limited to, relief of distress in pre-crisis and crisis situations, reduction of the risk of escalation, arrangements for emergency on-site responses when necessary, and referral of callers to appropriate services.

“Trauma-focused services” means services provided by caregivers and professionals that recognize when an individual who has been exposed to violence is in need of help to recover from adverse impacts; recognize and understand the impact that exposure to violence has on victims’ physical, psychological, and psychosocial development and well-being; and respond by helping in ways that reflect awareness of adverse impacts and consistently support the individual’s recovery.

“Trauma-informed care” means services that are based on an understanding of the vulnerabilities or triggers of those who have experienced violence, that recognize the role violence has played in the lives of those individuals, that are supportive of recovery, and that avoid retraumatization including trauma-focused services and trauma-specific treatment.

“Trauma-specific treatment” means services provided by a mental health professional using therapies that are free from the use of coercion, restraints, seclusion and isolation; and designed specifically to promote recovery from the adverse impacts of violence exposure on physical, psychological, psychosocial development, health and well-being.

“Urban” means a county that has a total population of 50,000 or more residents or includes a city with a population of 20,000 or more.

“Urgent nonemergency need” means the same as defined in rule 441—88.21(249A).

“Walk-in crisis service” means a program that provides unscheduled face-to-face support and intervention at an identified location or locations. The service may be provided directly by the program or through a contract with another mental health provider.

[ARC 1096C, IAB 10/16/13, effective 11/20/13]

441—25.2(331) Core service domains.

25.2(1) The region shall ensure that core service domains are available in regions as determined in Iowa Code section 331.397.

25.2(2) The region shall include and respect the recommendation of the individual and the individual’s care team in the process of transition to new services.

25.2(3) The region shall ensure that the following services are available in the region:

- a. Assessment and evaluation.
- b. Case management.
- c. Crisis evaluation.
- d. Day habilitation.
- e. Family support.
- f. Health homes.
- g. Home and vehicle modification.
- h. Home health aide.
- i. Job development.
- j. Medication prescribing and management.
- k. Mental health inpatient treatment.
- l. Mental health outpatient treatment.
- m. Peer support.
- n. Personal emergency response system.
- o. Prevocational services.
- p. Respite.
- q. Supported employment.
- r. Supportive community living.
- s. Twenty-four-hour access to crisis response.

Regions may fund or provide other services in addition to the required core services consistent with requirements set forth in subrules 25.2(4) and 25.2(5).

25.2(4) A regional service system shall consider the scope of services included in addition to the required core services. Each service included shall be described and projection of need and the funding necessary to meet the need shall be included.

25.2(5) A regional service system may provide funding for other appropriate services or other support. In considering whether to provide such funding, a region may consider the following criteria:

a. Applying a person-centered planning process to identify the need for the services or other support.

b. The efficacy of the services or other support is recognized as an evidence-based practice, is deemed to be an emerging and promising practice, or providing the services is part of a demonstration and will supply evidence as to the effectiveness of the services.

c. A determination that the services or other support provides an effective alternative to existing services that have been shown by the evidence base to be ineffective, to not yield the desired outcome, or to not support the principles outlined in *Olmstead v. L.C.*, 527 U.S. 581.

[ARC 1096C, IAB 10/16/13, effective 11/20/13]

441—25.3(331) Access standards. The region shall include:

25.3(1) A sufficient provider network which shall include:

a. A community mental health center or federally qualified health center that provides psychiatric and outpatient mental health services in the region.

b. A hospital with an inpatient psychiatric unit or state mental health institute located in or within reasonably close proximity that has the capacity to provide inpatient services to the applicant.

25.3(2) Crisis services shall be available 24 hours per day, seven days per week, 365 days per year for mental health and disability-related emergencies.

25.3(3) The region shall provide the following treatment services:

a. Outpatient.

(1) Emergency: During an emergency, outpatient services shall be initiated to an individual within 15 minutes of telephone contact.

(2) Urgent: Outpatient services shall be provided to an individual within one hour of presentation or 24 hours of telephone contact.

(3) Routine: Outpatient services shall be provided to an individual within four weeks of request for appointment.

(4) Distance: Outpatient services shall be offered within 30 miles for an individual residing in an urban community and 45 miles for an individual residing in a rural community.

b. Inpatient.

(1) An individual in need of emergency inpatient services shall receive treatment within 24 hours.

(2) Inpatient services shall be available within reasonably close proximity to the region.

c. Assessment and evaluation. An individual who has received inpatient services shall be assessed and evaluated within four weeks.

25.3(4) A region shall provide the following basic crisis response:

a. Twenty-four-hour access to crisis response, 24 hours per day, seven days per week, 365 days per year.

b. Crisis evaluation within 24 hours.

25.3(5) Support for community living. The first appointment shall occur within four weeks of the individual's request of support for community living.

25.3(6) Support for employment. The initial referral shall take place within 60 days of the individual's request of support for employment.

25.3(7) Recovery services. An individual receiving recovery services shall not have to travel more than 30 miles if residing in an urban area or 45 miles if residing in a rural area to receive services.

25.3(8) Service coordination:

a. An individual receiving service coordination shall not have to travel more than 30 miles if residing in an urban area or 45 miles if residing in a rural area to receive services.

b. An individual shall receive service coordination within 10 days of the initial request for such service or being discharged from an inpatient facility.

25.3(9) The following limitations apply to home and vehicle modification for an individual receiving mental health and disability services:

a. A lifetime limit equal to that established for the home- and community-based services waiver for individuals with intellectual disabilities in the medical assistance program.

b. A provider reimbursement payment will be no lower than that provided through the home- and community-based services waiver for individuals with intellectual disabilities in the medical assistance program.

[ARC 1096C, IAB 10/16/13, effective 11/20/13]

441—25.4(331) Practices. A region shall ensure that access is available to providers of core services that demonstrate the following competencies:

25.4(1) Regions shall have service providers that are trained to provide effective services to individuals with two or more of the following co-occurring conditions:

- a.* Mental illness.
- b.* Intellectual disability.
- c.* Developmental disability.
- d.* Brain injury.
- e.* Substance use disorder.

Training for serving individuals with co-occurring conditions provided by the region shall be training identified by the Substance Abuse and Mental Health Services Administration, the Dartmouth Psychiatric Research Center or other generally recognized professional organization specified in the regional service system management plan.

25.4(2) Regions shall have service providers that are trained to provide effective trauma-informed care. Trauma-informed care training provided by the region shall be recognized by the National Center for Trauma-Informed Care or other generally recognized professional organization specified in the regional service system management plan.

25.4(3) Regions must have evidence-based practices that the region has independently verified as meeting established fidelity to evidence-based service models including, but not limited to, assertive community treatment or strengths-based case management; integrated treatment of co-occurring substance abuse and mental health disorders; supported employment; family psychoeducation; illness management and recovery; and permanent supportive housing.

[ARC 1096C, IAB 10/16/13, effective 11/20/13]

These rules are intended to implement Iowa Code chapter 331 and 2012 Iowa Acts, chapter 1120, section 15.

441—25.5 to 25.10 Reserved.

DIVISION II REGIONAL SERVICE SYSTEM

PREAMBLE

These rules define the standards for a regional service system. The mental health and disability services provided by counties operating as a region shall be delivered in accordance with a regional service system management plan approved by the region's governing board and implemented by the regional administrator (Iowa Code section 331.393). Iowa counties are encouraged to enter into a regional system when the regional approach is likely to increase the availability of services to residents of the state who need the services. It is the intent of the Iowa general assembly that the adult residents of this state should have access to needed mental health and disability services regardless of the location of their residence.

[ARC 1173C, IAB 11/13/13, effective 1/1/14]

441—25.11(331) Definitions.

“Access point” means a provider, public or private institution, advocacy organization, legal representative, or educational institution with staff trained to complete applications and guide individuals with a disability to needed services.

“Applicant” means an individual who applies to receive services and supports from the service system.

“Assessment and evaluation” means the same as defined in rule 441—25.1(331).

“Assistive technology account” means funds in contracts, savings, trust or other financial accounts, financial instruments, or other arrangements with a definite cash value that are set aside and designated for the purchase, lease, or acquisition of assistive technology, assistive technology services, or assistive technology devices. Assistive technology accounts must be held separately from other accounts. Funds must be used to purchase, lease, or otherwise acquire assistive technology services or devices for a working individual with a disability. Any withdrawal from an assistive technology account other than for the designated purpose becomes a countable resource.

“Authorized representative” means a person designated by the individual or by Iowa law to act on the individual’s behalf in specified affairs to the extent prescribed by law.

“Chief executive officer” means the person chosen and supervised by the governing board who serves as the single point of accountability for the mental health and disability services region and whose responsibilities include, but are not limited to, planning, budgeting, monitoring county and regional expenditures, and ensuring the delivery of quality services that achieve expected outcomes for the individuals served.

“Choice” means the individual or authorized representative chooses the services, supports, and goods needed to best meet the individual’s goals and accepts the responsibility and consequences of those choices.

“Clear lines of accountability” means the structure of the governing board’s organization makes it evident that the ultimate responsibility for the administration of the non-Medicaid-funded mental health and disability services lies with the governing board and that the governing board directly and solely supervises the organization’s chief executive officer.

“Community” means an integrated setting of an individual’s choice.

“Conflict-free case management” means there is no real or seeming incompatibility between the case manager’s other interests and the case manager’s duties to the individual served and includes case management separate from direct service provision; eligibility determination for services; establishment of funding levels for the individual’s services; and requirements that prohibit the case manager from performing evaluations, assessments, and plans of care if the case manager is related by blood or marriage to the individual or any of the individual’s paid caregivers or persons financially responsible for the individual or empowered to make financial or health-related decisions on behalf of the individual.

“Coordinator of disability services” means the same as defined in Iowa Code section 331.390(3) “b.”

“Countable resource” means real or personal property that has a cash value that is available to the owner upon disposition and is capable of being liquidated.

“Countable value” means the equity value of a resource, which is the current fair market value minus any legal debt on the item.

“County of residence” means the same as defined in Iowa Code section 331.394.

“Department” means the department of human services.

“Director” means the director of human services.

“Disability services” means the same as defined in Iowa Code section 225C.2.

“Emergency service” means the same as defined in rule 441—88.21(249A).

“Empowerment” means that the service system ensures the rights, dignity, and ability of individuals and their families to exercise choices, take risks, provide input, and accept responsibility.

“Exempt resource” means a resource that is disregarded in the determination of eligibility for public funding assistance and in the calculation of client participation amounts.

“Homeless person” means the same as defined in Iowa Code section 48A.2.

“Household” means, for an individual who is 18 years of age or over, the individual, the individual’s spouse or domestic partner, and any children, stepchildren, or wards under the age of 18 who reside with the individual. For an individual under the age of 18, “household” means the individual, the individual’s parents (or parent and domestic partner), stepparents or guardians, and any children, stepchildren, or

wards under the age of 18 of the individual's parents (or parent and domestic partner), stepparents, or guardians who reside with the individual.

"Income" means all gross income received by the individual's household, including but not limited to wages, income from self-employment, retirement benefits, disability benefits, dividends, annuities, public assistance, unemployment compensation, alimony, child support, investment income, rental income, and income from trust funds.

"Individual" means any person seeking or receiving services in a regional service system.

"Individualized services" means services and supports that are tailored to meet the personalized needs of the individual.

"Liquid assets" means assets that can be converted to cash in 20 days. Liquid assets include but are not limited to cash on hand, checking accounts, savings accounts, stocks, bonds, cash value of life insurance, individual retirement accounts, certificates of deposit, and other investments.

"Managed care" means a system that provides the coordinated delivery of services and supports that are necessary and appropriate, delivered in the least restrictive settings and in the least intrusive manner. Managed care seeks to balance three factors: achieving high-quality outcomes for participants, coordinating access, and containing costs.

"Managed system" means a system that integrates planning, administration, financing, and service delivery. The system consists of the financing or governing organization, the entity responsible for care management, and the network of service providers.

"Management organization" means an organization contracted to manage part or all of the service system for a region.

"Medical savings account" means an account that is exempt from federal income taxation pursuant to Section 220 of the U.S. Internal Revenue Code (26 U.S.C. §220) as supported by documentation provided by the bank or other financial institution. Any withdrawal from a medical savings account other than for the designated purpose becomes a countable resource.

"Mental health professional" means the same as defined in Iowa Code section 228.1(6).

"Non-liquid assets" means assets that cannot be converted to cash in 20 days. Non-liquid assets include, but are not limited to, real estate, motor vehicles, motor vessels, livestock, tools, machinery, and personal property.

"Population" means the same as defined in Iowa Code section 331.388.

"Provider" means an individual, firm, corporation, association, or institution which is providing or has been approved to provide medical assistance, is accredited under 441—Chapter 24, holds a professional license to provide the service, is accredited by a national insurance panel, or holds other national accreditation or certification.

"Regional administrator" or *"regional administrative entity"* means the administrative office or organization formed by agreement of the counties participating in a mental health and disability services region to function on behalf of those counties.

"Regional services fund" means the mental health and disability regional services fund created in Iowa Code section 225C.7A.

"Regional service system management plan" means the regional service system plan developed pursuant to Iowa Code section 331.393 for the funding and administration of non-Medicaid-funded mental health and disability services and includes an annual service and budget plan, a policies and procedures manual, and an annual report and how the region will coordinate with the department in the provision of mental health and disability services funded under the medical assistance program.

"Resources" means all liquid and non-liquid assets that are owned in part or in whole by the individual household, that could be converted to cash to use for support and maintenance, and that the individual household is not legally restricted from using for support and maintenance.

"Retirement account" means any retirement or pension fund or account listed in Iowa Code section 627.6(8) "f."

"Retirement account in the accumulation stage" means a retirement account into which a deposit was made in the previous tax year. Any withdrawal from a retirement account becomes a countable resource.

“*Service system*” refers to the mental health and disability services and supports administered by the regional administrative entity and paid from the regional services fund.

“*State case status*” means the standing of an individual who has no county of residence.

“*State commission*” means the same as defined in Iowa Code section 225C.5.

“*System of care*” means the coordination of a system of services and supports to individuals and their families that ensures they optimally live, work, and recreate in integrated communities of their choice.

“*System principles*” means practices that include individual choice, community and empowerment.
[ARC 1173C, IAB 11/13/13, effective 1/1/14]

441—25.12(331) Regional governance structure. The counties comprising a mental health and disability services region shall enter into an agreement to form a regional administrator under the control of a governing board to function on behalf of those counties as defined in Iowa Code chapter 28E and sections 331.388, 331.390 and 331.392 and 2013 Iowa Acts, House File 648, section 14.

25.12(1) Governing board. The governing board shall comply with the following requirements:

a. The governing board shall comply with the membership requirements as outlined in Iowa Code section 331.390 and follow the requirements in Iowa Code chapter 69 and other applicable laws relating to boards and commissions.

b. A regional advisory committee shall be created and shall designate members to the governing board as defined in Iowa Code section 331.390(2).

c. The governing board shall appoint and evaluate the performance of the chief executive officer of the regional administrative entity who will serve as the single point of accountability for the region.

25.12(2) Regional administrator. The formation of the regional administrator shall be as defined in Iowa Code sections 331.388 and 331.390.

a. The regional administrative entity is under the control of the governing board.

b. The regional administrative entity shall enter into and manage performance-based contracts in accordance with Iowa Code section 225C.4(1)“u.”

c. The regional administrative entity structure shall have clear lines of accountability.

d. The regional administrative entity functions as a lead agency utilizing shared county or regional staff or other means of limiting administrative costs.

e. The regional administrative entity staff shall include one or more coordinators of disability services.

25.12(3) Regional service system management. The region may either directly implement a system of service management and contract with service providers, or contract with a private entity to manage the regional service system, provided all requirements of Iowa Code section 331.393 are met by the private entity.

[ARC 1173C, IAB 11/13/13, effective 1/1/14]

441—25.13(331) Regional finances.

25.13(1) Funding. Non-Medicaid mental health and disability services funding is under the control of the governing board and shall:

a. Be maintained to limit administrative burden and provide public transparency regarding financial processes.

b. Be maintained in one of three ways:

(1) In a combined account.

(2) In separate county accounts that are under the control of the governing board.

(3) In other arrangements authorized by law.

25.13(2) Accounting system and financial reporting. The accounting system and financial reporting to the department shall conform to Iowa Code section 331.391 and include all non-Medicaid mental health and disability expenditures. Information shall be separated and identified in a uniform chart of accounts, including but not limited to the following: expenses for administration; purchase of services; and enterprise costs for which the region is a service provider or is directly billing and collecting payments.

[ARC 1173C, IAB 11/13/13, effective 1/1/14]

441—25.14(331) Regional governance agreement. The expectations for regional governance agreements entered into by the counties comprising a mental health and disability services region are defined in Iowa Code sections 28E.1, 331.388, 331.390 and 331.392.

25.14(1) Organizational provisions. The organizational provisions of the regional governance agreement shall include the following:

- a. A statement of purpose, goals, and objective of entering into the agreement.
- b. Identification of the governing board membership and the terms, methods of appointment, and voting procedures, including whether or not voting will be weighted.
- c. The identification of the process for selecting the executive staff, including but not limited to the chief executive officer of the regional administrative entity.
- d. Identification of the counties participating in the agreement.
- e. The time period of the agreement and terms for termination or renewal of the agreement.
- f. Provisions for joining a region. Additional counties may join the region. The agreement shall not prohibit a county from being assigned by the department to a region according to Iowa Code section 331.389(4) “c.”

g. Methods for dispute resolution and mediation.

h. Methods for termination of a county’s participation in the region.

i. Provision for formation and assigned responsibilities for one or more advisory committees consisting of:

- (1) Individuals who utilize services or the actively involved relatives of such individuals.
- (2) Service providers.
- (3) Governing board members.
- (4) Other interests identified in the agreement.

25.14(2) Administrative provisions. The administrative provisions of the regional governance agreement shall include all of the following:

a. Identification of whether the region will either directly implement a system of service management or contract with a private entity to manage the regional service system as defined in Iowa Code section 331.393(7).

b. Responsibility of the governing board in appointing and evaluating the performance of the chief executive officer of the regional administrative entity.

c. A general list of the functions and responsibilities of the regional administrative entity’s chief executive officer and other staff including but not limited to coordinators of disability services.

d. Specification of the functions to be carried out by each party to the agreement and by any subcontractor of a party to the agreement.

25.14(3) Financial provisions. The financial provisions of the regional governance agreement shall include all of the following:

a. Methods for pooling, managing and expending funds under control of the regional administrative entity. If the agreement does not provide for pooling of the participating county moneys in a single fund, the agreement shall specify how the participating county moneys will be subject to the control of the regional administrative entity.

b. Methods for allocating administrative funding and resources.

c. Methods for contributing initial funds to the region.

d. Methods for acquiring or disposing of real property.

e. The process for how to use savings achieved for reinvestment.

f. A process for performance of an annual independent audit of the regional administrator.

[ARC 1173C, IAB 11/13/13, effective 1/1/14]

441—25.15(331) Eligibility, diagnosis, and functional assessment criteria.

25.15(1) Eligibility for mental health services. An individual must comply with all of the following requirements to be eligible for mental health services under the regional service system:

- a. The individual complies with the financial eligibility requirements in rule 441—25.16(331).
- b. The individual is at least 18 years of age.

- c. The individual is a resident of this state.
- d. The individual has had at any time during the preceding 12-month period a mental health, behavioral, or emotional disorder or, in the opinion of a mental health professional, may now have such a diagnosable disorder. The diagnosis shall be made in accordance with the criteria provided in the most recent Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association and shall not include the manual's "V" codes identifying conditions other than a disease or injury. The diagnosis shall also not include substance-related disorders, dementia, antisocial personality, or developmental disabilities, unless co-occurring with another diagnosable mental illness.
- e. The results of a standardized functional assessment support the need for mental health services of the type and frequency identified in the individual's case plan. The standardized functional assessment methodology shall be designated for mental health services by the director of human services in consultation with the state commission. A functional assessment must be completed within 90 days of application for services.

25.15(2) *Other conditions of eligibility for mental health services.*

a. An individual who is 17 years of age, is a resident of this state, and is receiving publicly funded children's services may be considered eligible for services through the regional service system during the three-month period preceding the individual's eighteenth birthday in order to provide a smooth transition from children's to adult services.

b. An individual less than 18 years of age and a resident of the state may be considered eligible for those mental health services made available to all or a portion of the residents of the region of the same age and eligibility class under the county management plan of one or more counties of the region applicable prior to formation of the region. Eligibility for services under this paragraph is limited to availability of regional service system funds without limiting or reducing core services, and if part of the approved regional service system management plan.

25.15(3) *Eligibility for intellectual disability services.* An individual must comply with all of the following requirements to be eligible for intellectual disability services under the regional service system:

- a. The individual complies with the financial eligibility requirements in rule 441—25.16(331).
- b. The individual is at least 18 years of age.
- c. The individual is a resident of this state.
- d. The individual has a diagnosis of intellectual disability as defined by Iowa Code section 4.1(9A).
- e. The results of a standardized functional assessment support the need for intellectual disability services of the type and frequency identified in the individual's case plan. The standardized functional assessment methodology shall be designated for intellectual services by the director of human services in consultation with the state commission. A functional assessment must be completed within 90 days of application for services.

25.15(4) *Other conditions of eligibility for intellectual disability services.*

a. An individual who is 17 years of age, is a resident of this state, and is receiving publicly funded children's services may be considered eligible for services through the regional service system during the three-month period preceding the individual's eighteenth birthday in order to provide a smooth transition from children's to adult services.

b. An individual less than 18 years of age and a resident of the state may be considered eligible for those intellectual disability services made available to all or a portion of the residents of the region of the same age and eligibility class under the county management plan of one or more counties of the region applicable prior to formation of the region. Eligibility for services under this paragraph is limited to availability of regional service system funds without limiting or reducing core services, and if part of the approved regional service system management plan.

25.15(5) *Eligibility for brain injury services.* An individual must comply with all of the following requirements to be eligible for brain injury services under the regional service system, if such services were provided to the same class of individuals by a county in the region prior to regional formation and if funds are available to continue such services without limiting or reducing core services.

- a. The individual complies with the financial eligibility requirements in rule 441—25.16(331).
- b. The individual is at least 18 years of age.

- c. The individual is a resident of this state.
- d. The individual has a diagnosis of brain injury as defined in rule 441—83.81(249A).
- e. The results of a standardized functional assessment support the need for brain injury services of the type and frequency identified in the individual's case plan. The standardized functional assessment methodology used is the methodology approved for brain injury services by the director of human services in consultation with the state commission. A functional assessment must be completed within 90 days of application for services.

25.15(6) *Other conditions of eligibility for brain injury services.* An individual who is 17 years of age, is a resident of this state, and is receiving publicly funded children's services may be considered eligible for services through the regional service system during the three-month period preceding the individual's eighteenth birthday in order to provide a smooth transition from children's to adult services.

25.15(7) *Eligibility for developmental disability services.*

- a. Until funding is designated for other service populations, eligibility for the core service domains shall be as identified in Iowa Code section 331.397(1) "b."
- b. If a county in a region was providing services to an eligibility class of individuals with a developmental disability other than intellectual disability prior to formation of the region, the class of individuals shall remain eligible for the services provided when the region is formed, providing that funds are available to continue such services without limiting or reducing core services. The individual must also meet the requirements in paragraphs 25.15(7) "c," "d," "e" and "f."
- c. The individual complies with the financial eligibility requirements in rule 441—25.16(331).
- d. The individual is at least 18 years of age.
- e. The individual is a resident of this state.
- f. The individual has a diagnosis of a developmental disability other than an intellectual disability as defined in rule 441—24.1(225C).

[ARC 1173C, IAB 11/13/13, effective 1/1/14]

441—25.16(331) Financial eligibility requirements. The regional service system management plan shall identify basic financial eligibility standards for disability services as defined in Iowa Code section 331.395.

25.16(1) *Income requirements.* Income requirements shall be as defined in Iowa Code section 331.395(1).

25.16(2) *Resource requirements.* An individual must have resources that are equal to or less than \$2,000 in countable value for a single-person household or \$3,000 in countable value for a multiperson household or follow the most recent federal supplemental security income guidelines.

- a. The countable value of all countable resources, both liquid and non-liquid, shall be included in the eligibility determination except as exempted in this subrule.
- b. A transfer of property or other assets within five years of the time of application with the result of, or intent to, qualify for assistance may result in denial or discontinuation of funding.
- c. The following resources shall be exempt:
 - (1) The homestead, including equity in a family home or farm that is used as the individual household's principal place of residence. The homestead shall include all land that is contiguous to the home and the buildings located on the land.
 - (2) One automobile used for transportation.
 - (3) Tools of an actively pursued trade.
 - (4) General household furnishings and personal items.
 - (5) Burial account or trust limited in value as to that allowed in the medical assistance program.
 - (6) Cash surrender value of life insurance with a face value of less than \$1,500 on any one person.
 - (7) Any resource determined excludable by the Social Security Administration as a result of an approved Social Security Administration work incentive.

d. If an individual does not qualify for federally funded or state-funded services or other support but meets all income, resource, and functional eligibility requirements of this chapter, the following types of resources shall additionally be considered exempt from consideration in eligibility determination:

- (1) A retirement account that is in the accumulation stage.
- (2) A medical savings account.
- (3) An assistive technology account.
- (4) A burial account or trust limited in value as to that allowed in the medical assistance program.
- e. An individual who is eligible for federally funded services and other support must apply for and accept such funding and support.

25.16(3) *Copayment standards.* A regional administrative entity must comply with copayment standards as defined in Iowa Code section 331.395.

- a. Copayments are allowed for individuals with income above 150 percent of the federal poverty level.
- b. Copayments in this rule are related to core services as defined in Iowa Code section 331.397.

25.16(4) *Copayment standards required by any federal, state, regional, or municipal program.* Any copayments or other client participation required by any federal, state, regional or municipal program in which the individual participates shall be required by the regional administrative entity. Such copayments include, but are not limited to:

- a. Client participation for maintenance in a residential care facility through the state supplementary assistance program.
- b. The financial liability for institutional services paid by counties as provided in Iowa Code section 230.15.
- c. The financial liability for attorney fees related to commitment as provided by Iowa Code section 229.8.

[ARC 1173C, IAB 11/13/13, effective 1/1/14]

441—25.17(331) Exempted counties. If a county has been exempted pursuant to Iowa Code section 331.389 from the requirement to enter into a regional service system, the county and the county's board of supervisors shall fulfill all the requirements of this chapter for a regional service system management plan.

[ARC 1173C, IAB 11/13/13, effective 1/1/14]

441—25.18(331) Annual service and budget plan. The annual service and budget plan shall describe the services to be provided and the cost of those services for the ensuing year.

25.18(1) The annual service and budget plan is due on April 1 prior to the July 1 implementation of the annual plan and shall be approved by the region's governing board prior to submittal to the department. The initial plan is due on April 1, 2014.

25.18(2) The annual service and budget plan shall include but not be limited to:

- a. The locations of the local access points for services. This shall include the name of the access points including the physical locations and contact information.
- b. Targeted case management. The targeted case management agencies for the region, including the physical location and contact information for those agencies, shall be included.
- c. Crisis planning. The plan for ensuring effective crisis prevention, response and resolution, including contact information for the agencies responsible, shall be included.
- d. Scope of services. A description of the scope of services to be provided, a projection of need for the service, and the funding necessary to meet the need shall be included.
 - (1) The scope shall include the regional core services as defined in rule 441—25.1(331).
 - (2) The scope shall also include services in addition to the required core services.
- e. Budget and financing provisions for the next year. The provisions shall address how county, regional, state and other funding sources will be used to meet the service needs within the region.
- f. Financial forecasting measures. The plan shall describe the financial forecasting measures used in the identification of service need and funding necessary for services.
- g. The provider reimbursement provisions. The plan shall describe the types of reimbursement methods that will be used, including fee for service, compensating providers for a "system of care" approach, and use of nontraditional providers. A region also shall provide funding approaches that

identify and incorporate all services and sources of funding used by the individuals receiving services, including the medical assistance program.

[ARC 1173C, IAB 11/13/13, effective 1/1/14]

441—25.19(331) Annual service and budget plan approval. The annual service and budget plan shall be submitted by April 1, 2014, as a part of the region's management plan for the fiscal year beginning July 1, 2014. The director shall review all regional annual service and budget plans submitted by the dates specified. If the director finds the regional annual service and budget plan in compliance with these rules and state and federal laws, the director may approve the plan. A plan approved by the director for the fiscal year beginning July 1, 2014, shall remain in effect until June 30, 2015, subject to amendment.

25.19(1) Criteria for acceptance. The director shall determine a plan is acceptable when it contains all the required information, meets the criteria described in this division, and is in compliance with all applicable state and federal laws. The director may request additional information to determine whether or not the plan contains all the required information and meets criteria described in this division.

25.19(2) Notification. Except as specified in subrule 25.19(3), the director shall notify the region in writing of the decision on the plan by June 1, 2014. The decision shall specify that either:

a. The annual service and budget plan is approved as it was submitted, either with or without supplemental information already requested and received.

b. The annual service and budget plan will not be approved until revisions are made. The letter will specify the nature of the revisions requested and the time frames for their submission.

25.19(3) Review of late submittals. The director may review plans not submitted by April 1, 2014, after all plans submitted by that date have been reviewed. The director will proceed with the late submittals in a timely manner.

25.19(4) Amendments. An amendment to the annual service and budget plan shall be approved by the regional governance board and submitted to the department at least 45 days before the date of implementation. Before implementation of any amendment to the plan, the director must approve the amendment.

a. Criteria for acceptance. The director shall determine an amendment is acceptable when it contains all the required information and meets the criteria described in this division for the applicable part of the annual service and budget plan and is in compliance with all applicable state and federal laws. The director may request additional information to determine whether or not the amendment contains all the required information and meets criteria described in this division.

b. Notification. The director shall notify the region, in writing, of the decision on the amendment within 45 days of receipt of the amendment. The decision shall specify either that:

(1) The amendment is approved as it was submitted, either with or without supplemental information already requested and received.

(2) The amendment is not approved. The notification will include why the amendment is not approved.

25.19(5) Reconsideration. Regions dissatisfied with the director's decision on a plan or an amendment may file a letter with the director requesting reconsideration. The letter requesting reconsideration must be received within 30 working days of the date of the notice of decision and shall include a request for the director to review the decision and the reasons for dissatisfaction. Within 30 working days of the receipt of the letter requesting reconsideration, the director will review both the reconsideration request and evidence provided. The director shall issue a final decision in writing.

[ARC 1173C, IAB 11/13/13, effective 1/1/14]

441—25.20(331) Annual report. The annual report shall describe the services provided, the cost of those services, the number of individuals served, and the outcomes achieved for the previous fiscal year. The annual report is due on December 1 following a completed fiscal year of implementing the annual service and budget plan. The initial report is due on December 1, 2015. The annual report shall include but not be limited to:

1. Services actually provided.
2. Actual numbers of individuals served.

3. Moneys expended.
4. Outcomes achieved.

[ARC 1173C, IAB 11/13/13, effective 1/1/14]

441—25.21(331) Policies and procedures manual for the regional service system. The policies and procedures manual shall describe the policies and process developed to direct the management and administration of the regional service system. The initial manual is due on April 1, 2014, and will remain in effect subject to amendment.

25.21(1) Content. The manual shall include but not be limited to:

a. Financing and delivery of services and supports. A description of the region's process used to develop and ensure the ongoing financial accountability and delivery of services outlined in the region's annual service and budget plan shall be included.

b. Enrollment. The application and enrollment process that is readily accessible to applicants and their families or authorized representatives shall be included. This procedure shall identify regional access points and where applicants can apply for services and how and when the applications will reach the regional administrative entity's designated staff for processing.

c. Eligibility. The process utilized to determine eligibility shall be included in the manual and shall include but not be limited to:

(1) The criteria used to authorize or deny funding for services and supports. This shall include guidelines for who is eligible to receive services and supports by eligibility group, and type of service or support.

(2) Financial eligibility and copayment criteria, which shall meet the requirements of rule 441—25.16(331).

(3) The time frames for conducting eligibility determination that provide for timely access to services, including necessary and immediate services not to exceed ten days.

(4) The process for development of a written notice of decision. The time frame for sending a written notice of decision to the individual and guardian (if applicable) and the service providers identified in the notice shall be included. The notice of decision shall:

1. Explain the action taken on the application and the reasons for that action.
2. State what services are approved and name the service providers.
3. Outline the applicant's right to appeal.
4. Describe the appeal process.

d. Utilization of and access to services. The process for managing utilization of and access to services and other assistance shall be included. The process shall describe how coordination between the services included in the annual service and budget plan and the disability services administered by the state and others will be managed.

e. Quality management and improvement process. The quality management and improvement process shall at a minimum meet the requirements of the department's outcome and performance measures process as outlined in Iowa Code sections 225C.4(1)"j" and 225C.6A.

f. Risk management and fiscal viability. If the region contracts with a private entity, the manual must include risk management provisions and fiscal viability of the annual services and budget plan.

g. Targeted case management.

(1) Designation of targeted case management providers. The process used to identify and designate targeted case management providers for the region shall be described. This process shall include the requirement for the implementation of evidence-based practice models of case management within the region. Requirements of this practice include:

1. Providing the individual receiving the case management with a choice of providers.
2. Allowing a service provider to be the case manager but prohibiting the provider from referring that individual only to services administered by the provider.
3. Provisions to ensure compliance with, but not exceed, federal requirements for conflict-free case management.

(2) Qualifications of targeted case managers. A region's manual shall require that any targeted case managers or other persons providing service coordination while working for the designated provider meet the qualifications of qualified case managers and supervisors as defined in rule 441—24.1(225C).

(3) Targeted case management and service coordination services. Targeted case management and service coordination services utilized in a regional service system shall include but are not limited to the following as defined in Iowa Code section 331.393(4) "g":

1. Performance and outcome measures relating to the health, safety, work performance, and community residency of the individuals receiving the services.

2. Standards for delivery of the services, including but not limited to the social history, assessment, service planning, incident reporting, crisis planning, coordination, and monitoring for individuals receiving the services.

3. Methodologies for complying with the requirements of paragraph 25.21(1) "g." Methodologies may include the use of electronic record keeping and remote or Internet-based training.

h. System of care approach plan.

i. Decentralized service provision. Measures to provide services in a dispersed manner that meet the minimum access standards of core services and that utilize the strengths and assets of the service providers within and available to the region shall be included.

j. Provider network formation and management. The manual shall require that providers that are subject to license, accreditation or approval meet established standards. The manual shall detail the approval process, including criteria, developed to select providers that are not currently subject to license, accreditation or approval standards. The manual shall identify the process the regional administrative entity will use to contract with providers and manage the provider network to ensure it meets the needs of the individuals in the region. The provider network will include but is not limited to the following:

(1) A contract with a community mental health center that provides services in the individual's region or with a federally qualified health center that provides psychiatric and outpatient mental health services in the individual's region.

(2) Contracts with licensed and accredited providers to provide each service in the required core service domains.

(3) Adequate numbers of licensed and accredited providers to ensure availability of core services so that there is no waiting list for services due to lack of available providers.

(4) A contract with an inpatient psychiatric hospital unit or state mental health institute within reasonably close proximity.

k. Service provider payment provisions. A policy for payment of service providers which describes the method and process of paying for services and supports delivered to the region shall be included.

l. Grievance processes. The manual shall develop and implement processes for appealing the decisions of the regional administrative entity in the following circumstances:

(1) Nonexpedited appeal process. The appeal process shall be based on objective criteria, specify time frames, provide for notification in accessible formats of the decisions to all parties, and provide some assistance to individuals with disabilities using the process. Responsibility for the final step in the appeal process shall be a state administrative law judge in nonexpedited appeals.

(2) Expedited appeal process. This appeal process is to be used when the decision of the regional administrative entity concerning an individual varies from the type and amount of service identified to be necessary for the individual in a clinical determination made by a mental health professional and the mental health professional believes that the failure to provide the type and amount of service identified could cause an immediate danger to an individual's health or safety. This appeal process shall be performed by a mental health professional who is either the administrator of the division of mental health and disability services of the department of human services or the administrator's designee.

1. The appeal shall be filed within five days of receipt of the notice of decision by the regional administrative entity.

2. The expedited review by the division administrator or designee shall take place within two days of receipt of the request, unless more information is needed. There is an extension of two days from the time the new information is received.

3. The administrator shall issue an order, including a brief statement of findings of fact, conclusions of law, and policy reasons for the order, to justify the decision made concerning the expedited review. If the decision concurs with the contention that there is an immediate danger to the individual's health or safety, the order shall identify the type and amount of service which shall be provided for the individual. The administrator or designee shall give such notice as is practicable to individuals who are required to comply with the order. The order is effective when issued.

4. The decision of the administrator or designee shall be considered a final agency action and is subject to judicial review in accordance with Iowa Code section 17A.19.

m. Implementation of interagency and multisystem collaboration and care coordination. The policies and procedures manual shall describe how the region will collaborate with other funders, other regional service systems, service providers, case management, individuals and their families or authorized representatives, and advocates to ensure that authorized services and supports are responsive to individuals' needs, consistent with system principles, and cost-efficient. The manual shall describe the process for collaboration with the court to ensure alternatives to commitment and to coordinate funding for services to individuals who are under court-ordered commitment services pursuant to Iowa Code chapter 229.

n. Addressing multioccurring needs. The policies and procedures manual shall include criteria and measures to be used to address the needs of individuals who have two or more co-occurring mental health, intellectual or other developmental disability, brain injury, or substance-related disorders. The manual shall also include criteria and measures to be used to address the needs of individuals with specialized needs.

o. Service management and functional assessment. The policies and procedures manual shall describe how functional assessments and service management will be incorporated in accordance with applicable requirements.

p. Service system management. The policies and procedures manual shall identify whether the region will be directly implementing a system of service management or will contract with a private entity to manage the regional service system. If the region contracts with a private entity, the region will ensure that all requirements of Iowa Code section 331.393 and these administrative rules are fulfilled.

q. Assistance to other than core service populations. The policies and procedures manual shall specify the services populations, other than core service populations, to whom the region will provide assistance if funding is available.

r. Waiting list criteria. The policies and procedures manual shall specify whether the region will use waiting lists. If the policy and procedures manual specifies the use of waiting lists for funding services and supports, it shall specify criteria for the use and review of each waiting list, including the criteria to be used to determine how and when an individual will be placed on a waiting list. The criteria will include how core services and additional core services will be impacted the least by budgetary limitations. The manual shall specify how waiting list data will be used in future planning.

25.21(2) Approval. The manual shall be submitted by April 1, 2014, as a part of the region's management plan for the fiscal year beginning July 1, 2014. The manual shall be approved by the region's governing board and is subject to approval by the director of human services. The director shall review all regional annual service and budget plans submitted by the dates specified. If the director finds the manual in compliance with these rules and state and federal laws, the director may approve the plan. A plan approved by the director for the fiscal year beginning July 1, 2014, shall remain in effect subject to amendment.

a. Criteria for acceptance. The director shall determine a plan is acceptable when it contains all the required information, meets the criteria described in this division, and is in compliance with all applicable state and federal laws. The director may request additional information to determine whether or not the plan contains all the required information and meets criteria described in this division.

b. Notification.

(1) Except as specified in subparagraph 25.21(2)“b”(2), the director shall notify the region in writing of the decision on the plan by June 1, 2014. The decision shall specify that either:

1. The policies and procedures manual is approved as it was submitted, either with or without supplemental information already requested and received.

2. The policies and procedures manual will not be approved until revisions are made. The letter will specify the nature of the revisions requested and the time frames for their submission.

(2) Review of late submittals. The director may review manuals not submitted by April 1, 2014, after all manuals submitted by that date have been reviewed. The director will proceed with the late submittals in a timely manner.

25.21(3) Amendments. An amendment to the policy and procedures manual shall be approved by the regional governance board and submitted to the department at least 45 days before the date of implementation. Before implementation of any amendment to the manual, the director must approve the amendment.

a. Criteria for acceptance. The director, in consultation with the state commission, shall determine an amendment is acceptable when it contains all the required information and meets the criteria described in this division for the applicable part of the policy and procedures manual and is in compliance with all applicable state and federal laws. The director may request additional information to determine whether or not the amendment contains all the required information and meets criteria described in this division.

b. Notification. The director shall notify the region, in writing, of the decision on the amendment within 45 days of receipt of the amendment. The decision shall specify either that:

(1) The amendment is approved as it was submitted, either with or without supplemental information already requested and received.

(2) The amendment is not approved. The notification will explain why the amendment is not approved.

25.21(4) Reconsideration. Regions dissatisfied with the director’s decision on a manual or an amendment may file a letter with the director requesting reconsideration. The letter of reconsideration must be received within 30 working days of the date of the notice of decision and shall include a request for the director to review the decision and the reasons for dissatisfaction. Within 30 working days of the receipt of the letter requesting reconsideration, the director will review both the reconsideration request and evidence provided. The director shall issue a final decision in writing.

These rules are intended to implement Iowa Code sections 331.388 to 331.398.
[ARC 1173C, IAB 11/13/13, effective 1/1/14]

441—25.22 to 25.40 Reserved.

DIVISION III MINIMUM DATA SET

441—25.41(331) Minimum data set. Each county shall maintain data on all clients served through the MH/DD services fund.

25.41(1) Submission of data. Each county shall submit to DHS a copy of the data regarding each individual that the county serves through the central point of coordination process.

a. DHS state payment program, state supplementary assistance program, mental health institutes, state resource centers, Medicaid program, and Medicaid managed care contractors shall provide the equivalent data in a compatible format on the same schedule as the required submission from the counties.

b. DHS shall maintain the data in the data analysis unit for research and analysis purposes only. Only summary data shall be reported to policymakers or the public.

25.41(2) Data required. The data to be submitted are as follows:

a. Basic client information including a unique identifier, name, address, county of residence and county of legal settlement.

b. The state I.D. number for state payment cases.

c. Demographic information including date of birth, sex, ethnicity, marital status, education, residential living arrangement, current employment status, monthly income, income sources, type of insurance, insurance carrier, veterans' status, guardianship status, legal status in the system, source of referral, diagnosis in the current version of the DSM, diagnosis in the current version of the ICD, disability group (i.e., intellectual disability, developmental disability, chronic mental illness, mental illness), central point of coordination (county number preceded by A 1), and central point of coordination (CPC) name.

d. Service information including the decision on services, date of decision, date client terminated from CPC services and reason for termination, residence, approved service, service beginning dates, service ending dates, reason for terminating each service, approved units of services, unit rate for service, expenditure data, and provider data.

e. Counties shall not be penalized in any fashion for failing to collect data elements in situations of crisis or in outreach efforts to identify or engage people in needed mental health services. For the purposes of this rule:

(1) Situations of crisis include but are not limited to voluntary and involuntary hospitalizations, legal and transportation services associated with involuntary hospitalizations, emergency outpatient services, mobile crisis team services, jail diversion services, mental health services provided in a county jail, and other services for which the county is required to pay but does not have access to the client to collect the required information.

(2) Outreach efforts to identify or engage people in needed mental health services include but are not limited to mental health advocate services; services for homeless persons, refugees, or other legal immigrants; services for state cases who do not have documentation with them and are unable to help the county locate appropriate records; consultation; education to raise public awareness; 12-step or other support groups for persons with dual disorders; and drop-in centers.

f. Although all of the data in the minimum data set are important to provide support for program analysis, a county shall be penalized for noncompliance with this rule if the county does not provide 100 percent reporting of the data elements listed in this paragraph. Beginning with the data reported for state fiscal year 2008, less than 100 percent reporting for the following items shall be viewed as noncompliance unless the data are exempted by paragraph "e":

(1) Client identifiers:

1. Lname3 (the first three letters of the client's last name).
2. Last4SSN (the last four digits of the client's social security number).
3. SEX (the client's sex).
4. BDATE (the client's birth date).

(2) CPC (central point of coordination).

(3) Payment information:

1. PYMTDATE (CoMIS payment date).
2. FUND CODE (CoMIS fund code).
3. DG (CoMIS diagnosis).
4. COACODE (CoMIS chart of accounts code).
5. BEGDATE (CoMIS service beginning date).
6. ENDDATE (CoMIS service ending date).
7. UNITS (CoMIS units of service).
8. COPD (CoMIS county paid).

(4) ValidSSN (valid social security number indicator).

(5) IsPerson (IsPerson indicator).

g. Although all of the data in the minimum data set are important to provide support for program analysis, a county shall be penalized for noncompliance with this rule if the county does not provide 90 percent reporting of the data elements listed in this paragraph beginning with the data reported for fiscal year 2008. Less than 90 percent reporting for the following items shall be viewed as noncompliance unless the data are exempted by paragraph "e":

(1) Application Date (application date).

- (2) RESCO (residence county).
- (3) LEGCO (legal county).
- (4) Provider ID (vendor number).

h. The department shall analyze the data received on or before December 1 each year by December 15 or by the next business day if December 15 falls on a weekend or holiday.

(1) When a county's data submission does not meet the specifications in paragraph "f" or "g," the department will notify the county by E-mail.

(2) The county shall have 30 days from the date of the E-mail notice to submit the missing data or to provide an explanation of why the data cannot be reported.

(3) If the county does not report the data or provide an adequate explanation within 30 days, the department shall find the county in noncompliance.

i. The department shall post the aggregate reports received by December 1 on the department's Web site within 90 days.

25.41(3) Method of data collection. A county may choose to collect this information using the county management information system (CoMIS) that was designed by the department or may collect the information through some other means. If a county chooses to use another system, the county must be capable of supplying the information in the same format as CoMIS.

a. Except as provided in subparagraph (3), each county shall submit the following files in Microsoft Excel format (version 97 to 2000) or comma-delimited text file (CSV) format using data from the associated CoMIS table or from the county's chosen management information system:

<u>Files to submit</u>	<u>Associated CoMIS Table</u>
WarehouseClient.xls or WarehouseClient.csv	Client Data
WarehouseIncome.xls or WarehouseIncome.csv	Income Review
WarehousePayment.xls or WarehousePayment.csv	Payment
WarehouseProvider.xls or WarehouseProvider.csv	Provider
WarehouseProviderServices.xls or WarehouseProviderServices.csv	tblProviderServices
WarehouseService.xls or WarehouseService.csv	Service Authorizations

(1) Paragraphs "b" through "g" list the data required in each file and specify the structure or description for each data item to be reported.

(2) The field names used in the report files must be exactly the same as indicated in the corresponding paragraph, including spaces, and must be entered in the first row for each sheet.

(3) The file labeled WarehouseService.xls or WarehouseService.csv or service authorization (described in paragraph "g" of this subrule) shall be removed from this requirement on June 30, 2011, if data from this file have not been used by that date.

b. File name: WarehouseClient.xls or WarehouseClient.csv.

Sheet name: Warehouse_Client_Transfer_Query.

Field Name	Data Type	Field Size	Format	Description
CPC	Number	3	0 decimal places	Central point of coordination number: county number preceded by a 1
RESCO	Number	3	0 decimal places	Residence county of client: 1-99 = County number 100 = State of Iowa 900 = Undetermined or in dispute
LEGCO	Number	3	0 decimal places	Legal county of client: 1-99 = County number 100 = State of Iowa 900 = Undetermined or in dispute

Field Name	Data Type	Field Size	Format	Description
Lname3	Text	3		The first 3 characters of the last name
Last4SSN	Text	4		The last 4 digits of the client's social security number. If that number is unknown, then use the last 4 digits of the CLIENT ID# field and mark column "ValidSSN" with the value "No."
BDATE	Date	10	mm/dd/yyyy	Date of client's birth
SEX	Text	1		Sex of client: M = Male F = Female
Last Update	Date	10	mm/dd/yyyy	Date of last update to client record
SID	Text	8	9999999a	State identification number of client, if applicable (format of a valid number is 7 digits plus 1 alphabetical character).
ADD1	Text	50		First address line
ADD2	Text	50		Second address line (if applicable)
CITY	Text	50		City address line
STATE	Text	2		State code
ZIP	Number	5	0 decimal places	5-digit ZIP code
ETHN	Number	1	0 decimal places	Ethnicity of client: 0 = Unknown 1 = White, not Hispanic 2 = African-American, not Hispanic 3 = American Indian or Alaskan native 4 = Asian or Pacific Islander 5 = Hispanic 6 = Other (biracial; Sudanese; etc.)
MARITAL	Number	1	0 decimal places	Marital status of client: 1 = Single, never married 2 = Married (includes common-law marriage) 3 = Divorced 4 = Separated 5 = Widowed
EDUC	Number	2	0 decimal places	Education level of the client
RARG	Number	2	0 decimal places	Residential arrangement of client: 1 = Private residence/household 2 = State MHI 3 = State resource center 4 = Community supervised living 5 = Foster care or family life home 6 = Residential care facility 7 = RCF/MR 8 = RCF/PMI 9 = Intermediate care facility 10 = ICF/MR 11 = ICF/PMI 12 = Correctional facility 13 = Homeless shelter or street 14 = Other
LARG	Number	1	0 decimal places	Living arrangement of client: 1 = Lives alone 2 = Lives with relatives 3 = Lives with persons unrelated to client
INS	Number	1	0 decimal places	Health insurance owned by client: 1 = Client pays 3 = Medicaid 4 = Medicare 5 = Private third party 6 = Not insured 7 = Medically Needy

Field Name	Data Type	Field Size	Format	Description
INSCAR	Text	50		First insurance company name, if applicable
INSCAR1	Text	50		Second insurance company name, if applicable
INSCAR2	Text	50		Third insurance company name, if applicable
VET	Text	1		Veteran status of client: Y = Yes N = No
CONSERVATOR	Number	1	0 decimal places	Conservator status of client: 1 = Self 2 = Other
GUARDIAN	Number	1	0 decimal places	Guardian status of client: 1 = Self 2 = Other
LEGSTAT	Number	1	0 decimal places	Legal status of client: 1 = Voluntary 2 = Involuntary, civil commitment 3 = Involuntary, criminal commitment
REFSO	Number	1	0 decimal places	Referral source of client: 1 = Self 2 = Family or friend 3 = Targeted case management 4 = Other case management 5 = Community corrections 6 = Social service agency other than case management 7 = Other
DSM (current version)	Text	50		DSM (current version) diagnosis code of client
ICD (current version)	Text	50		ICD (current version) diagnosis code (optional for county use; not tied to CoMIS entry)
DG	Number	2	0 decimal places	Disability group of client: 40 = Mental illness 41 = Chronic mental illness 42 = Mental retardation 43 = Other developmental disability 44 = Other categories
Application Date	Date	10	mm/dd/yyyy	Date of client's initial application
Outcome decision	Number	1	0 decimal places	Decision on client's application: 1 = Application accepted 2 = Application denied 3 = Decision pending
Decision date	Date	10	mm/dd/yyyy	Date decision was made on client's application
Denial reason	Text	2		Denial reason code: 00 = Not applicable 01 = Over income guidelines 1A = Over resource guidelines 02 = Does not meet county plan criteria 2A = Legal settlement in another county 2B = State case 3A = Brain injury 3B = Alzheimer's 3C = Substance abuse 3D = Other 04 = Does not meet service plan criteria 05 = Client desires to discontinue process 5A = Client fails to return requested information

Field Name	Data Type	Field Size	Format	Description
Client exit date from CPC	Date	10	mm/dd/yyyy	Date client was terminated from CPC services
Exit reason	Number	1	0 decimal places	Reason client left the CPC system: 0 = Unknown 1 = Client voluntarily withdrew 2 = Client deceased 3 = Unable to locate consumer 4 = Ineligible due to reasons other than income 5 = Ineligible, over income guidelines 6 = Client moved out of state 7 = Client no longer needs service 8 = Client has legal settlement in another county
Review Date	Date	10	mm/dd/yyyy	Date of last application review
PhoneNumber	Text	50		Phone number of client
ValidSSN	Text	3	Generated for CoMIS users in the data extract only	Populate this field with YES if the client has a valid social security number. If the client does not have a valid social security number, populate this field with NO.
IsPerson	Text	3	Generated for CoMIS users in the data extract only	Populate this field with YES if the client is a person. If the client entry represents a nonperson such as administrative costs, populate this field with NO.

c. File name: WarehouseIncome.xls or WarehouseIncome.csv.

Sheet name: Warehouse_Income_Transfer_Query.

Field Name	Data Type	Field Size	Format	Description
CPC	Number	3	0 decimal places	Central point of coordination number: county number preceded by a 1
RESCO	Number	3	0 decimal places	Residence county of client: 1-99 = County number 100 = State of Iowa 900 = Undetermined or in dispute
LEGCO	Number	3	0 decimal places	Legal county of client: 1-99 = County number 100 = State of Iowa 900 = Undetermined or in dispute
Lname3	Text	3		The first 3 characters of the last name
Last4SSN	Text	4		The last 4 digits of the client's social security number. If that number is unknown, then use the last 4 digits of the CLIENT ID# field and mark column "ValidSSN" with the value "No."
BDATE	Date	10	mm/dd/yyyy	Date of client's birth
SEX	Text	1		Sex of client: M = Male F = Female

Field Name	Data Type	Field Size	Format	Description
EMPL	Number	2	0 decimal places	Employment situation of client: 1 = Unemployed, available for work 2 = Unemployed, unavailable for work 3 = Employed full-time 4 = Employed part-time 5 = Retired 6 = Student 7 = Work activity employment 8 = Sheltered work employment 9 = Supported employment 10 = Vocational rehabilitation 11 = Seasonally employed 12 = In the armed forces 13 = Homemaker 14 = Other or not applicable 15 = Volunteer
House Hold Size	Number	2	0 decimal places	Number of people in client's household
INCSOUR	Number	2	0 decimal places	Primary income source of client: 1 = Family and friends 2 = Private relief agency 3 = Social security disability benefits 4 = Supplemental Security Income 5 = Social security benefits 6 = Pension 7 = Food assistance 8 = Veterans benefits 9 = Workers compensation 10 = General assistance 11 = Family investment program (FIP) 12 = Wages
Public Assistance Payments	Currency	14	2 decimal places	Monthly dollar amount for this income source (where applicable)
Social Security	Currency	14	2 decimal places	Monthly dollar amount for this income source (where applicable)
Social Security Disability	Currency	14	2 decimal places	Monthly dollar amount for this income source (where applicable)
SSI	Currency	14	2 decimal places	Monthly dollar amount for this income source (where applicable)
VA Benefits	Currency	14	2 decimal places	Monthly dollar amount for this income source (where applicable)
R/R Pension	Currency	14	2 decimal places	Monthly dollar amount for this income source (where applicable)
Child Support	Currency	14	2 decimal places	Monthly dollar amount for this income source (where applicable)
Employment Wages	Currency	14	2 decimal places	Monthly dollar amount for this income source (where applicable)
Dividend Interest	Currency	14	2 decimal places	Monthly dollar amount for this income source (where applicable)
Other Income	Currency	14	2 decimal places	Monthly dollar amount for this income source (where applicable)
Description 1	Text	50		Description of "Other Income"
Cash on hand	Currency	14	2 decimal places	Dollar amount for this resource type (where applicable)
Checking	Currency	14	2 decimal places	Dollar amount for this resource type (where applicable)
Savings	Currency	14	2 decimal places	Dollar amount for this resource type (where applicable)
Stocks/Bonds	Currency	14	2 decimal places	Dollar amount for this resource type (where applicable)
Time Certificates	Currency	14	2 decimal places	Dollar amount for this resource type (where applicable)

Field Name	Data Type	Field Size	Format	Description
Trust Funds	Currency	14	2 decimal places	Dollar amount for this resource type (where applicable)
Other Resources	Currency	14	2 decimal places	Dollar amount for this resource type (where applicable)
Description 2	Text	50		Description of “Other Resources” (where applicable)
Other Resources 2	Currency	14	2 decimal places	Dollar amount for this resource type (where applicable)
Description 3	Text	50		Description of “Other Resources 2”
Date reviewed	Date	10	mm/dd/yyyy	Date income was last reviewed (where applicable)

d. File name: WarehousePayment.xls or WarehousePayment.csv. Sheet name: Warehouse_Payment_Transfer_Quer.

Field Name	Data Type	Field Size	Format	Description
CPC	Number	3	0 decimal places	Central point of coordination number: county number preceded by a 1
RESCO	Number	3	0 decimal places	Residence county of client: 1-99 = County number 100 = State of Iowa 900 = Undetermined or in dispute
LEGCO	Number	3	0 decimal places	Legal county of client: 1-99 = County number 100 = State of Iowa 900 = Undetermined or in dispute
Lname3	Text	3		The first 3 characters of the last name
Last4SSN	Text	4		The last 4 digits of the client’s social security number. If that number is unknown, use the last 4 digits of the CLIENT ID# field and mark column “ValidSSN” with the value “No.”
BDATE	Date	10	mm/dd/yyyy	Date of client’s birth
SEX	Text	1		Sex of client: M = Male F = Female
PYMTDATE	Date	10	mm/dd/yyyy	Date county approves or makes payment
VENNAME	Text	50		Vendor or provider paid
COCODE	Number	3	0 decimal places	County where service was provided
FUND CODE	Text	10		Fund code for payment
DG	Number	2	0 decimal places	Disability group code for payment: 40 = Mental illness 41 = Chronic mental illness 42 = Mental retardation 43 = Other developmental disability 44 = Other categories
COACODE	Number	5	0 decimal places	Chart of accounts code for payment
BEGDATE	Date	10	mm/dd/yyyy	Beginning date of payment period
ENDDATE	Date	10	mm/dd/yyyy	Ending date of payment period
UNITS	Number	4	0 decimal places	Number of service units for payment
COPD	Currency	14	2 decimal places	Amount paid by the county
RECEIVED	Currency	14	2 decimal places	Amount received for reimbursement (if applicable)

e. File name: WarehouseProvider.xls or WarehouseProvider.csv. Sheet name: Warehouse_Provider_Transfer_Que. (If the provider has more than one office location, enter information for the headquarters office.)

Field Name	Data Type	Field Size	Format	Description
Provider ID	Text	50		Provider identifier (tax ID code)
Provider Name	Text	50		Provider name
Provider Address1	Text	50		Provider address line 1
Provider Address2	Text	50		Provider address line 2 (if applicable)
City	Text	50		Provider city
State	Text	2		Provider state code
Zip	Text	10		Provider ZIP code
COCODE	Number	3	0 decimal places	Provider county code
PhoneNumber	Text	50		Provider phone number
Date of Last Update	Date	10	mm/dd/yyyy	Provider last updated date

f. File name: WarehouseProviderServices.xls or WarehouseProviderServices.csv. Sheet name: Warehouse_Provider_Services_Tra.

Field Name	Data Type	Field Size	Format	Description
Provider ID	Text	50		Provider identifier (tax ID code)
Provider Name	Text	50		Provider name
FUND CODE	Text	10		Fund code for payment
DG	Number	2	0 decimal places	Disability group code for payment: 40 = Mental illness 41 = Chronic mental illness 42 = Mental retardation 43 = Other developmental disability 44 = Other categories
COACODE	Number	5	0 decimal places	Chart of accounts code for service
RATE	Currency	14	2 decimal places	Payment rate

g. File name: WarehouseService.xls or WarehouseService.csv. Sheet name: Warehouse_Service_Transfer_Quer.

Field Name	Data Type	Field Size	Format	Description
CPC	Number	3	0 decimal places	Central point of coordination number: county number preceded by a 1
RESCO	Number	3	0 decimal places	Residence county of client: 1-99 = County number 100 = State of Iowa 900 = Undetermined or in dispute
LEGCO	Number	3	0 decimal places	Legal county of client: 1-99 = County number 100 = State of Iowa 200 = Iowa nonresident 900 = Undetermined or in dispute
Lname3	Text	3		The first 3 characters of the last name
Last4SSN	Text	4		The last 4 digits of the client's social security number. If that number is unknown, then use the last 4 digits of the CLIENT ID# field and mark column "ValidSSN" with the value "No."
BDATE	Date	10	mm/dd/yyyy	Date of client's birth
SEX	Text	1		Sex of client: M = Male F = Female

Field Name	Data Type	Field Size	Format	Description
FUND CODE	Text	10		Fund code for service
DG	Number	2	0 decimal places	Disability group code for payment: 40 = Mental illness 41 = Chronic mental illness 42 = Mental retardation 43 = Other developmental disability 44 = Other category
COACODE	Number	5	0 decimal places	Chart of accounts code for service
Begin Date	Date	10	mm/dd/yyyy	Beginning date of service period
End Date	Date	10	mm/dd/yyyy	Ending date of service period
Ending Reason	Number	1	0 decimal places	Reason for terminating approval of service: 0 = NA 1 = Voluntary withdrawal 2 = Client no longer needs service 3 = Ineligible, over income guidelines 4 = Ineligible due to other than income 5 = Client moved out of state 6 = Client deceased 7 = Reauthorization
Units	Number	4	0 decimal places	Average number of service units approved monthly
Rate	Currency	14	2 decimal places	Dollar amount per service unit
Review Date	Date	10	mm/dd/yyyy	Date for next service review

This rule is intended to implement Iowa Code sections 331.438 and 331.439.
[ARC 2164C, IAB 9/30/15, effective 10/1/15]

441—25.42 to 25.50 Reserved.

DIVISION IV
INCENTIVE AND EFFICIENCY POOL FUNDING

PREAMBLE

These rules establish requirements for counties to receive funding from the incentive and efficiency pool. To be eligible for these funds, a county must select five performance indicators, submit a proposal, collect data, report data, and show improvement over time on the selected performance indicators.

441—25.51(77GA,HF2545) Desired results areas. In order to receive funds from the incentive and efficiency pool established in 1998 Iowa Acts, House File 2545, section 8, subsection 2, each county shall collect and report performance measure data in the following areas:

25.51(1) *Equity of access.* Each county shall measure the extent to which services are available and used. Each county shall:

a. Report annually the total number of consumers served, as well as an unduplicated total of the number of consumers served by disability category.

b. Calculate and report annually the percentage of service provision by dividing the number of consumers served in a year by the county's population as defined in 1998 Iowa Acts, House File 2545, section 7.

c. Calculate and report annually the percentage of denial of access by dividing the number of new, completed applications denied by the total number of new applications for service that year. A new, completed application shall be defined as an initial application of a consumer or any former consumer who is reapplying for service eligibility after more than 30 days of not being enrolled in the system, for which the consumer has supplied the information required on the application form.

d. Report annually the county's eligibility guidelines, which may include, but are not limited to, the income level below which an individual or family must be in order to be eligible for county-funded

services, the maximum amount of resources which an individual or family may have in order to be eligible for county-funded services, covered populations, and service access criteria.

25.51(2) *Community-based supports.* Each county shall measure the extent to which community-based supports are available and used. Each county shall calculate and report annually:

a. The service setting percentage by dividing the unduplicated number of persons served in each of the following service settings in a fiscal year by the total unduplicated number of consumers served, both in total and by population group: mental health institutes, state hospital schools, intermediate care facilities for the mentally retarded, other living arrangements over five beds as captured by the county chart of accounts, and employment settings which include sheltered workshops, enclaves and supported employment.

b. The home-based percentage by subtracting the number of consumers currently being served in residential placements from the total unduplicated number of consumers served, and dividing the difference by the total number of consumers served. The calculation shall be made both in total and by population group.

c. The inpatient spending percentage by dividing the amount the county spent for inpatient services by the amount the county spent for outpatient services. Each county shall also divide the unduplicated number of consumers who received inpatient services during the fiscal year by the total unduplicated number of consumers who received services during that same fiscal year. Inpatient services shall be defined as any acute care for which the county is wholly or partially financially responsible.

25.51(3) *Consumer participation.* Each county shall measure the extent to which consumers participate in all aspects of the service system.

a. Each county shall report annually on the number of opportunities during the year for consumers to participate in planning activities, which may include, but are not limited to, open forums, focus groups, consumer advisory committee meetings, and planning council meetings by calculating the total number of consumers participating in these activities and dividing by the unduplicated number of consumers served and also by the total population of the county. In addition, the county shall report duplicated and unduplicated total attendance at all of these meetings. These calculations shall be made for consumers and family members separately.

b. Each county which has a planning group shall calculate and report annually the planning group percentage by dividing the number of consumers who actively serve on the planning group by the total number of people on the planning group. This calculation shall be made for consumers and family members separately. For the purposes of this subrule, a planning group is any group of individuals designated by the board of supervisors, or if no designation has been made, any group acknowledged by the central point of coordination administrator as assisting in the development of the county management plan.

c. Each county shall conduct a consumer satisfaction survey following adoption of more detailed rules for the survey.

25.51(4) *Administration.* Each county shall measure the extent to which the county services system is administered efficiently and effectively. Each county shall:

a. Calculate and report annually the administrative cost percentage by dividing the amount spent administering the county services system by the total amount spent from the services fund for the fiscal year.

b. Calculate and report annually the service responsiveness average by measuring the number of days between the date a new, completed application was submitted and the date a notice of decision of eligibility was sent to the consumer, adding all of these numbers of days, and dividing by the total number of new, completed applications for the fiscal year. A new, completed application shall be defined as an initial application of a consumer or an application of any former consumer who is reapplying for service eligibility after more than 30 days of not being enrolled in the system, for which the consumer has supplied the information required on the application form.

c. Report annually the number of appeals filed as a percent of the unduplicated total number of consumers served per year.

441—25.52(77GA, HF2545) Methodology for applying for incentive funding. Beginning with the county management plan for the fiscal year which begins July 1, 1999, each county applying for funding under 1998 Iowa Acts, House File 2545, section 8, subsection 2, shall include with its county management plan a performance improvement proposal for improving the county's performance on at least five performance measures. Three of the measures must be selected from at least two of the desired results areas stated in rule 441—25.51(77GA, HF2545). For the remaining two measures, the county either may propose measures not identified in these rules or may use measures described in these rules. A performance improvement proposal is not a mandatory element of a county management plan.

25.52(1) *Performance improvement proposal.* Each county shall identify the performance measures which the county has targeted for improvement and shall propose a percentage change for each indicator. The proposal shall include the county's rationale for selecting the indicators and may include any supporting information the county deems necessary. The proposal shall describe the process the county will use to involve consumers in the evaluation.

25.52(2) *Committee responsibility.* The state county management committee shall review all county proposals, and may either accept the proposal, request modifications, or reject the proposal. In order to interpret and provide context for each county's performance improvement proposal, the state county management committee shall, by January 1, 1999, establish the background data to be collected and aggregated for all counties.

25.52(3) *County ineligibility.* A county which does not have an accepted proposal prior to July 1 will be ineligible to receive incentive funds for that fiscal year. A county may apply for an extension by petitioning the state county management committee prior to July 1. The petition shall describe the circumstances which will cause the proposal to be delayed and identify the date by which the proposal will be submitted. In addition, the state county management committee may grant an extension for the purposes of negotiation.

441—25.53(77GA, HF2545) Methodology for awarding incentive funding. Each county shall report on all performance measures listed in this division, plus any additional performance measures the county has selected, by December 1 of each year.

25.53(1) *Reporting.* Each county shall report performance measure information on forms, or by electronic means, developed for the purpose by the department in consultation with the state county management committee.

25.53(2) *Scoring.* The department shall analyze each county's report to determine the extent to which the county achieved the levels contained in the proposal accepted by the state county management committee. Prior to distribution of incentive funding to counties, results of the analysis shall be shared with the state county management committee.

25.53(3) *County ineligibility.* A county which does not report performance measure data by December 1 will be ineligible to receive incentive funds for that fiscal year. A county may apply for an extension by petitioning the state county management committee prior to December 1. The petition shall describe the circumstances which will cause the report to be delayed and identify the date by which the report will be submitted.

441—25.54(77GA, HF2545) Subsequent year performance factors. For any fiscal year which begins after July 1, 1999, the state county management committee shall not apply any additional performance measures until the county management information system (CoMIS) developed and maintained by the division of mental health and developmental disabilities has been modified, if necessary, to collect and calculate required data elements and performance measures and each county has been given the opportunity to establish baseline measures for those measures.

441—25.55(77GA, HF2545) Phase-in provisions.

25.55(1) *State fiscal year 1999.* For the fiscal year which begins July 1, 1998, each county shall collect data as required above in order to establish a baseline level on all performance measures. A county

which collects and reports all required data by December 1, 1999, shall be deemed to have received a 100 percent score on the county's performance indicators.

25.55(2) State fiscal year 2000. A county which submits a proposal with its management plan for the fiscal year which begins July 1, 1999, and reports the levels achieved on the selected performance measures by December 1, 2000, shall be deemed to have received a 100 percent score on the county's performance indicators, regardless of the actual levels achieved.

These rules are intended to implement 1998 Iowa Acts, House File 2545, section 8, subsection 2.

441—25.56 to 25.60 Reserved.

DIVISION V RISK POOL FUNDING

PREAMBLE

These rules establish a risk pool board to administer the risk pool fund established by the legislature and set forth the requirements for counties for receiving and repaying funding from the fund.

441—25.61(426B) Definitions.

"Available pool" means those funds remaining in the risk pool less any actuarial and other direct administrative costs.

"Central point of coordination (CPC)" means the administrative entity designated by a county board of supervisors, or the boards of a consortium of counties, to act as the single entry point to the service system as required in Iowa Code section 331.440.

"Commission" means the mental health, mental retardation, developmental disabilities, and brain injury commission.

"Division" means the mental health and disability services division of the department of human services.

"Mandated services" means those services for which a county is required to pay. Mandated services include, but may not be limited to, the following:

1. The costs for commitments for persons with mental illness, chronic mental illness, mental retardation, or developmental disabilities.
2. Inpatient services at the state mental health institutes for persons with mental illness or chronic mental illness.
3. Inpatient services at the state resource centers for persons with mental retardation or developmental disabilities.
4. Medicaid-funded care in an intermediate care facility for persons with mental retardation.
5. Medicaid-funded partial hospitalization and day treatment services for persons with chronic mental illness.
6. Medicaid-funded case management services for persons with mental retardation or developmental disabilities and for anyone not covered under the Iowa Plan.
7. Services provided under the Medicaid home- and community-based services mental retardation waiver.
8. Services provided under the Medicaid home- and community-based services brain injury waiver for which the county is responsible according to rule 441—83.90(249A).
9. Medicaid habilitation services for persons with chronic mental illness.

"Services fund" means a county's mental health, mental retardation, and developmental disabilities services fund created in Iowa Code section 331.424A.

441—25.62(426B) Risk pool board. This ten-member board consists of two county supervisors, two county auditors, a member of the commission who is not a member of a county board of supervisors, a member of the county finance committee created in Iowa Code chapter 333A who is not an elected official, a representative of a provider of mental health or developmental disabilities services selected

from nominees submitted by the Iowa Association of Community Providers, and two central point of coordination administrators, all appointed by the governor, subject to confirmation by two-thirds of the members of the senate, and one member appointed by the director of the department of human services.

25.62(1) Organization.

a. The members of the board shall annually elect from the board's voting membership a chairperson and vice-chairperson of the board.

b. Members appointed by the governor shall serve three-year terms.

25.62(2) Duties and powers of the board. The board's powers and duties are to make policy and to provide direction for the administration of the risk pool established by Iowa Code section 426B.5, subsection 2. In carrying out these duties, the board shall do all of the following:

a. Recommend to the commission for adoption rules governing the risk pool fund.

b. Determine application requirements to ensure prudent use of risk pool assistance.

c. Accept or reject applications for assistance in whole or in part.

d. Review the fiscal year-end financial records for all counties that are granted risk pool assistance and determine if repayment is required.

e. Approve actuarial and other direct administrative costs to be paid from the pool.

f. Compile a list of requests for risk pool assistance that are beyond the amount available in the risk pool fund for a fiscal year and the supporting information for those requests and submit the list and supporting information to the commission, the department of human services, and the general assembly.

g. Perform any other duties as mandated by law.

25.62(3) Board action.

a. A quorum shall consist of two-thirds of the membership appointed and qualified to vote.

b. When a quorum is present, an action is carried by a majority of the qualified members of the board.

25.62(4) Board minutes.

a. Copies of administrative rules and other materials considered are made part of the minutes by reference.

b. Copies of the minutes are kept on file in the office of the administrator of the division.

25.62(5) Board meetings.

a. The board shall meet in August of each year and may hold special meetings at the call of the chairperson or at the request of a majority of the voting members.

b. Any county making application for risk pool funds must be represented at the board meeting for awarding funds when that request is considered.

(1) The division shall notify the county of the date, time and location of the meeting.

(2) Any other persons with questions about the date, time or location of the meeting may contact the Administrator, Division of Mental Health and Disability Services, Department of Human Services, Hoover State Office Building, Fifth Floor, 1305 East Walnut Street, Des Moines, Iowa 50319-0114, telephone (515)281-7277.

c. The board shall comply with applicable provisions of Iowa's open meetings law, Iowa Code chapter 21.

25.62(6) Records. Any records maintained by the board or on behalf of the board shall be made available to the public for examination in compliance with Iowa's open records law, Iowa Code chapter 22. To the extent possible, before submitting applications, records and documents, applicants shall delete any confidential information. These records shall be maintained in the office of the division.

25.62(7) Conflict of interest. A board member cannot be a part of any presentation to the board of that board member's county's application for risk pool funds nor can the board member be a part of any action pertaining to that application.

25.62(8) Robert's Rules of Order. In cases not covered by these rules, Robert's Rules of Order shall govern.

25.62(9) Report. On or before March 1 and September 1 of each fiscal year, the department of human services shall provide the risk pool board with a report of the financial condition of each funding source administered by the board. The report shall include, but is not limited to, an itemization of the

funding source's balances, types and amount of revenues credited and payees and payment amounts for the expenditures made from the funding source during the reporting period.

[ARC 7879B, IAB 6/17/09, effective 6/1/09]

441—25.63(426B) Application process.

25.63(1) Applicants. A county may be eligible for risk pool assistance when the county demonstrates that it meets the conditions in this subrule.

a. Basic eligibility.

- (1) The county complies with the requirements of Iowa Code section 331.439.
- (2) The county levied the maximum amount allowed for the county's services fund under Iowa Code section 331.424A for the fiscal year of application.
- (3) In the fiscal year that commenced two years before the fiscal year of distribution, the county's services fund ending balance under generally accepted accounting principles was equal to or less than 20 percent of the county's actual gross expenditures for that fiscal year.

b. Circumstances indicating need for assistance. Risk pool assistance is needed for one or more of the following purposes:

- (1) To continue support for mandated services.
- (2) To avoid the need for reduction or elimination of:
 1. Critical services, creating risk to a consumer's health or safety;
 2. Critical emergency or mobile crisis services, creating risk to the public's health or safety;
 3. Services or other support provided to an entire disability category; or
 4. Services or other support provided to maintain consumers in a community setting, creating risk of placement in a more restrictive, higher-cost setting.

25.63(2) Application procedures.

a. Format for submission. The county shall submit the application package electronically or send an original plus 15 copies to the division. Facsimiles are not acceptable.

b. Deadline. The division must receive the application no later than 4:30 p.m. on July 1 of each year; or, if July 1 is a holiday, Saturday or Sunday, the division must receive the application no later than 4:30 p.m. on the first working day thereafter.

c. Signature. The application shall be signed and dated by both the chairperson of the county board of supervisors and the central point of coordination administrator.

d. Notice of receipt. Staff of the division shall notify each county of receipt of the county's application.

e. Content. In addition to Form 470-3723, Risk Pool Application, the application package shall include the following forms for the fiscal year that commenced two years before the fiscal year of distribution:

- (1) Form 634C, Service Area 4 Supporting Detail (pages 1 to 8).
- (2) Form 638R, Statement of Revenues, Expenditures, and Changes in Fund Balance—Actual and Budget (pages 1 and 2).
- (3) If the budget has been amended, Form 653A-R, Record of Hearing and Determination on the Amendment to County Budget (sheet 2), as last amended.

25.63(3) Request for additional information. Staff shall review all applications for completeness. If an application is not complete, staff of the division shall contact the county within four working days after July 1 to request the information needed to complete the application. If July 1 is a holiday, Saturday or Sunday, the division shall make this contact within five working days after July 1. The county shall submit the required information within five working days from the date of the division's request for the additional information.

[ARC 7879B, IAB 6/17/09, effective 6/1/09]

441—25.64(426B) Methodology for awarding risk pool funding. The risk pool board shall make an eligibility decision on each application within 45 days after receiving the application and shall make a funding decision no later than August 15.

25.64(1) Notice of decision. The risk pool board shall send a notice of decision of the board's action to the chairperson of the applying county's board of supervisors. Copies of the notice of decision shall be sent to the county auditor and the central point of coordination administrator.

25.64(2) Distribution of funds. The total amount of the risk pool shall be limited to the available pool for a fiscal year.

a. If the total dollar amount of the approved applications exceeds the available pool, the board shall prorate the amount paid for an approved application. The funds will be prorated to each county based upon the proportion of each approved county's request to the total amount of all approved requests.

b. The division shall authorize the issuance of warrants payable to the county treasurers for the amounts due. The warrants shall be issued on or before September 15.

[ARC 7879B, IAB 6/17/09, effective 6/1/09]

441—25.65(426B) Repayment provisions.

25.65(1) Required repayment. Counties shall be required to repay risk pool funds if the county's actual need for risk pool assistance was less than the amount of risk pool assistance granted to the county. The county shall refund the lesser of:

a. The amount of assistance awarded; or
b. An amount such that the fund balance after refund will not exceed 5 percent of the expenditures for the year as determined on a modified accrual basis.

25.65(2) Year-end report. Each county granted risk pool funds shall complete a year-end financial report as required by Iowa Code section 225C.6A(2)(c)(3). The division shall review the accrual information and notify the mental health risk pool board if any county that was granted assistance in the prior year received more than the county's actual need based on the submitted financial report.

25.65(3) Notification to county. The chairperson of the mental health risk pool board shall notify each county by January 1 of each fiscal year of the amount to be reimbursed. The county shall reimburse the risk pool within 30 days of receipt of notification by the chairperson of the mental health risk pool board. If a county fails to reimburse the mental health risk pool, the board may request a revenue offset through the department of revenue. Copies of the overpayment and request for reimbursement shall be sent to the county auditor and the central point of coordination administrator of the county.

[ARC 7879B, IAB 6/17/09, effective 6/1/09]

441—25.66(426B) Appeals. The risk pool board may accept or reject an application for assistance from the risk pool fund in whole or in part. The decision of the board is final and is not appealable.

These rules are intended to implement Iowa Code section 426B.5, subsection 2.

441—25.67 to 25.70 Reserved.

DIVISION VI TOBACCO SETTLEMENT FUND RISK POOL FUNDING

PREAMBLE

These rules provide for use of an appropriation from the tobacco settlement fund to establish a risk pool fund which may be used by counties with limited county mental health, mental retardation and developmental disabilities services funds to pay for increased compensation of the service staff of eligible purchase of service (POS) providers and establish the requirements for counties for receiving and repaying the funding. Implementation of the rate increases contemplated by the tobacco settlement fund in a timely manner will require cooperation among all eligible counties and providers.

441—25.71(78GA,ch1221) Definitions.

"Adjusted actual cost" means a POS provider's cost as computed using the financial and statistical report for the provider's fiscal year which ended during the state fiscal year beginning July 1, 1998 (state fiscal year 1999), as adjusted by multiplying those actual costs by 103.4 percent or the percentage

adopted by the risk pool board in accordance with 2000 Iowa Acts, chapter 1221, section 3, subsection 3, paragraph “c.”

“*Department*” means the Iowa department of human services.

“*Division*” means the mental health and developmental disabilities division of the department of human services.

“*Financial and statistical report*” means a report prepared by a provider and submitted to host counties that is prepared in accordance with department rules for cost determination set forth in 441—Chapter 150.

“*Host county*” means the county in which the primary offices of a POS provider are located. However, if a POS provider operates separate programs in more than one county, “host county” means each county in which a separate program is operated.

“*Purchase of service provider*” or “*POS provider*” means a provider of sheltered work, work activity, supported employment, job placement, enclave services, adult day care, transportation, supported community living services, or adult residential services paid by a county from the county’s services fund created in Iowa Code section 331.424A under a state purchase of service or county contract.

“*Risk pool board*” means that board established by Iowa Code section 426B.5, subsection 3.

“*Separate program*” means a POS service operated in a county other than the county in which the provider’s home office is located and for which the provider allocates costs separately from similar programs located in the county where the provider’s home office is located.

“*Services fund*” means the fund defined in Iowa Code section 331.424A.

“*Tobacco settlement fund loan*” or “*TSF loan*” means the tobacco settlement fund risk pool funds a county received in a fiscal year in which the county did not levy the maximum amount allowed for the county’s mental health, mental retardation, and developmental disabilities services fund under Iowa Code section 331.424A. The repayment amount shall be limited to the amount by which the actual amount levied was less than the maximum amount allowed.

441—25.72(78GA,ch1221) Risk pool board. The risk pool board is organized and shall take action and keep minutes and records as set out in rule 441—25.62(426B).

A risk pool board member cannot be a part of any presentation to the board of that board member’s county’s application for tobacco settlement fund risk pool funds nor can the board member be a part of any action pertaining to that application. If a risk pool board member is employed by or is a board member of a POS provider whose increases in compensation caused the host county to apply to the fund, the board member cannot be a part of any presentation to the board nor can the board member be a part of any action pertaining to that application.

441—25.73(78GA,ch1221) Rate-setting process. For services provided on or after July 1, 2000, each county shall increase its reimbursement rates for each program to the lesser of the adjusted actual cost or 105 percent of the rate paid for services provided on June 30, 2000.

25.73(1) Financial and statistical report. Each provider of POS services shall submit a financial and statistical report to each host county for each program that the provider operates within that county. These reports shall include actual costs for each separate program for the provider’s fiscal year that ended during state fiscal year 1999 and state fiscal year 2000. These reports shall be submitted to the central point of coordination (CPC) administrator of the host county or counties no later than August 15, 2000.

25.73(2) Rate determination. The CPC administrator in each host county shall receive and review provider financial and statistical reports for each separate program for which that county is the host county. If the host county determines that all or part of the provider’s increase in costs is attributable to increases in service staff compensation and that the adjusted actual cost is more than the rate paid by the county on June 30, 2000, the CPC administrator shall notify the provider in writing of the new rate for each program no later than September 1, 2000.

If a rate paid for services provided on June 30, 2000, exceeds the adjusted actual cost, the county shall not be required to adjust the rate for services provided on or after July 1, 2000.

The provider shall, no later than September 11, 2000, send to the CPC administrator of any other counties with consumers in those programs a copy of the rate determination signed by the CPC administrator of the host county. A county may delay payment of the reimbursement rate established pursuant to this subrule until the risk pool board has completed action as to adopting or not adopting a different percentage for the definition of adjusted actual cost, provided however that any increased rates required by 2000 Iowa Acts, chapter 1221, section 3, subsection 2, paragraph "c," shall be paid retroactively for all services provided on or after July 1, 2000.

25.73(3) Exemptions.

a. A POS provider that has negotiated a reimbursement rate increase with a host county as of July 1, 2000, has the option of exemption from the provisions of these rules. However, a county shall not be eligible to receive tobacco settlement funds for any rates established outside of the process established in these rules.

b. Nothing in these rules precludes a county from increasing reimbursement rates of POS providers by an amount that is greater than that specified in these rules. However, a county shall not be eligible for tobacco settlement funds for the amount of any rate increase in excess of the amount established pursuant to these rules.

441—25.74(78GA,ch1221) Application process.

25.74(1) Who may apply. If a county determines that payment of POS provider rates in accordance with these rules will cause the county to expend more funds in FY2001 than budgeted for POS services, the county may apply for assistance from the tobacco settlement fund. However, any fiscal year 2000 projected accrual basis fund balances in excess of 25 percent of fiscal year 2000 services fund gross expenditures will reduce the amount for which a county is eligible. In considering the cost of implementing these provisions, a county shall not include the cost of rate increases granted to any providers who fail to complete financial and statistical reports as provided in these rules.

25.74(2) How to apply. The county shall send the original and 15 copies of Form 470-3768, Tobacco Settlement Fund Risk Pool Application, to the division. The division must receive the application no later than 4:30 p.m. on September 25, 2000. Facsimiles and electronic mail are not acceptable. The application shall be signed and dated by the chairperson of the county board of supervisors, the county auditor, and the CPC administrator. Staff of the division shall notify each county of receipt of the county's application.

25.74(3) Request for additional information. Staff shall review all applications for completeness. If an application is not complete, staff of the division shall contact the county by October 5, 2000, and request the information needed to complete the application. The county shall submit the required information by October 16, 2000.

441—25.75(78GA,ch1221) Methodology for awarding tobacco settlement fund risk pool funding.

25.75(1) Review of applications. The risk pool board shall review all of the applications from counties for assistance from the tobacco settlement fund. If the total amount requested from the tobacco settlement fund does not exceed \$2 million, eligible counties shall be awarded funding pursuant to this division. The risk pool board shall determine for each county whether any or all of the assistance granted to that county is a TSF loan.

25.75(2) Notice of decision. The risk pool board shall notify the chair of the applying county's board of supervisors of the board's action no later than November 3, 2000. Copies shall be sent to the county auditor and the CPC administrator.

25.75(3) Distribution of funds. The total amount of the risk pool shall be limited to \$2 million. If the total dollar amount of the eligible applications exceeds the available pool, the risk pool board shall revise the percentage adjustment to actual cost to arrive at adjusted actual cost as defined in this division and prorate funding to the eligible counties. If it becomes necessary to revise the percentage adjustment used to determine adjusted actual cost, the risk pool board shall determine if applicant counties remain eligible under this program.

25.75(4) Notification of adjustment. If the risk pool board rolls back the percentage adjustment used to determine adjusted actual cost, the risk pool board shall notify the chair of the board of supervisors of all counties, and copies shall be sent to the county auditor and the CPC administrator of each county. Each host county shall recalculate the reimbursement rate under this division using the revised adjusted actual cost percentage and notify each provider in writing of the revised rate within 30 days of receiving notice of the percentage adjustment. The provider shall, within 30 days of receipt of notice, send to the CPC administrator of any other counties with consumers in those programs a copy of the revised rate determination signed by the CPC administrator of the host county.

441—25.76(78GA,ch1221) Repayment provisions.

25.76(1) Required repayment. Counties shall be required to repay TSF loans by January 1, 2002. Repayments shall be credited to the tobacco settlement fund.

25.76(2) Notification to county. In the notice of decision provided pursuant to these rules, the chairperson of the risk pool board shall notify each county of the portion, if any, of the assistance that is considered a TSF loan. If a county fails to reimburse the tobacco settlement fund by January 1, 2002, the board may request a revenue offset through the department of revenue. Copies of the overpayment and request for reimbursement shall be sent to the county auditor and the CPC administrator of the county.

441—25.77(78GA,ch1221) Appeals. The risk pool board may accept or reject an application for assistance from the tobacco settlement fund risk pool fund in whole or in part. The decision of the board is final and is not appealable.

These rules are intended to implement 2000 Iowa Acts, chapter 1221, section 3, as amended by chapter 1232, section 4.

441—25.78 to 25.80 Reserved.

DIVISION VII
COMMUNITY MENTAL HEALTH CENTER WAIVER REQUEST

PREAMBLE

This division establishes a process for the mental health and developmental disabilities commission to grant a waiver to any county not affiliated with a community mental health center.

441—25.81(225C) Waiver request. Counties that have not established or that are not affiliated with a community mental health center under Iowa Code chapter 230A are required to expend a portion of the money received from the MI/MR/DD/BI community services fund to contract with a community mental health center for services. When a county determines that a contractual arrangement is undesirable or unworkable, it may request a waiver from this requirement for a fiscal year. The waiver request and justification may be submitted to the mental health and developmental disabilities commission with the application for MI/MR/DD/BI community services funds on Form 470-0887, Waiver Request, or it may be submitted separately. The commission may grant a waiver if the request successfully demonstrates that all of the following conditions are met:

25.81(1) Accreditation of provider. The provider or network of providers that the county has contracted with to deliver the identified mental health services is accredited as another mental health provider pursuant to 441—Chapter 24.

25.81(2) Contracted services. The county has contracted to provide services that are equal to or greater than the smallest set of services provided by an accredited community mental health center in the department's service area for that county.

25.81(3) Eligible populations. The county contract includes the following eligible populations:

- a. Children.
- b. Adults.
- c. Elderly.
- d. Chronically mentally ill.

e. Mentally ill.

This rule is intended to implement Iowa Code section 225C.7.

441—25.82 to 25.90 Reserved

DIVISION VIII
CRITERIA FOR EXEMPTING COUNTIES FROM JOINING INTO REGIONS TO ADMINISTER
MENTAL HEALTH AND DISABILITY SERVICES

441—25.91(331) Exemption from joining into mental health and disability services region.

25.91(1) Definitions.

“Applicant” means a single county or two counties that submit an application for an exemption from the requirement to join a region of three or more contiguous counties.

“Clear lines of accountability” means the governing board’s organizational structure makes it evident that the ultimate responsibility for the administration of non-Medicaid-funded mental health and disability services lies with the governing board and that the governing board directly and solely supervises the organization’s chief executive officer.

“Coordinator of disability services” means a person who meets the qualifications of a coordinator of disability services as defined in Iowa Code section 331.390(3) “b” and is responsible for ensuring that individuals receive effective service coordination consistent with the county’s or counties’ management plan.

“Core services” means core services mandated to be provided by the regional service system as defined in Iowa Code section 331.397.

“Department” means the Iowa department of human services.

“Director” means the director of the department.

“Evidence-based practice” means interventions that have been rigorously tested, have yielded consistent, replicable results, and have proven safe, beneficial, and effective.

“Penetration rate,” for the purposes of this rule, means the per capita number of adults in the adult population of a county who are receiving mental health and disability services.

“Reasonably close proximity” means a distance of 100 miles or less or a driving distance of two hours or less from the county seat or county seats of the applicant.

“Trauma-informed care” means services that are based on an understanding of the vulnerabilities or triggers of individuals who have experienced trauma, recognize the role trauma has played in the lives of those individuals, are supportive of trauma recovery, and avoid retraumatization.

25.91(2) Application for exemption from the requirement to form a region of three or more contiguous counties. The following requirements apply to an application for exemption from the requirement to form a region of three or more contiguous counties:

a. The applicant shall submit a written statement that the applicant intends to apply for an exemption from the requirement to form a region of three or more contiguous counties. The statement must be signed by the chairperson of the county board of supervisors of the applicant’s county. The signed written statement of intent must be received by the department on or before May 1, 2013, at 4:30 p.m.

b. The applicant shall submit a written application on forms specified by the department with required supporting documentation. The department shall only accept applications that are complete, signed by the applicant’s chairperson of the county board of supervisors, dated, and received by the department on or before June 30, 2013, at 4:30 p.m.

c. The director of the department shall issue a decision on the application within 45 days of receiving the application. The director shall deny an application if the application does not meet the criteria described in Iowa Code or rule.

25.91(3) Applicant criteria. The application shall include written documentation and evidence that the applicant has:

a. The capacity to provide required core services and perform required functions described in Iowa Code section 331.397.

b. A contract with a community mental health center or a federally qualified health center that provides psychiatric and outpatient mental health services in the applicant's county or counties or written intent from the community mental health center or federally qualified health center to enter into such a contract.

c. A contract with a hospital with an inpatient psychiatric unit or a state mental health institute located in or within reasonably close proximity that has the capacity to provide inpatient services to the applicant or written intent from the state mental health institute or inpatient psychiatric unit to enter into such a contract.

d. An administrative structure with clear lines of accountability. A description of the applicant's administrative functions shall be included with the application.

e. Taken steps to determine and demonstrate that forming a region of three or more contiguous counties is not workable.

25.91(4) *Core services and required functions standards.* The department shall review the application to determine if the applicant has provided written documentation and evidence for the availability of:

a. A 24-hour, 7-day-a-week, 365-days-per-year telephone response system for mental health and disability-related emergencies in the applicant's county or counties.

b. Service providers in the applicant's county or counties that demonstrate the capability of providing evidence-based practices that the applicant has independently verified meet established fidelity to evidence-based service models including, but not limited to:

- (1) Assertive community treatment or strengths-based case management.
- (2) Integrated treatment of co-occurring substance abuse and mental health disorders.
- (3) Supported employment.
- (4) Family psychoeducation.
- (5) Illness management and recovery.
- (6) Permanent supportive housing.

c. Service providers in the applicant's county or counties that are trained to provide effective services to persons with two or more of the following co-occurring conditions: mental illness, intellectual disability, developmental disability, brain injury, or substance use disorder. Training for serving persons with co-occurring conditions shall be training identified by the Substance Abuse and Mental Health Services Administration, the Dartmouth Psychiatric Research Center or other generally recognized professional organization specified in the application.

d. Service providers in the applicant's county or counties that are trained to provide effective trauma-informed care. Trauma-informed care training shall be training identified by the National Center for Trauma-Informed Care or other generally recognized professional organization specified in the application.

25.91(5) *Service capacity.* The department shall review the material provided in the application and by the applicant and other counties in their required county reports to determine if the applicant demonstrates that it has:

a. Sufficient financial resources to fund required core services.

b. A penetration rate that is at least equal to or exceeds the statewide per capita average for individuals with a mental illness or individuals with an intellectual disability.

c. A per capita use of inpatient psychiatric hospital services that is less than or equal to the statewide per capita average.

d. A per capita use of intermediate care facilities for individuals with intellectual disabilities that is less than or equal to the statewide per capita average.

e. A per capita use of outpatient mental health services that is greater than or equal to the statewide per capita average.

f. A per capita use of supported community living services that is greater than or equal to the statewide per capita average.

g. An average cost of service per individual served that is equal to or less than the statewide average.

h. Administrative costs, as a percentage of non-Medicaid service expenditures, that are less than or equal to the statewide average.

25.91(6) *Provider network sufficiency.* The department shall review the application to determine if the applicant provided written documentation and evidence of:

a. A contract with a community mental health center that provides services in the applicant's county or counties or a federally qualified health center that provides psychiatric and outpatient mental health services in the applicant's county or counties or written intent by a community mental health center or federally qualified health center to enter into such a contract.

b. Contracts with licensed and accredited providers to provide each service in the required core service domains or written intent by providers to enter into such contracts.

c. Adequate numbers of licensed and accredited providers to ensure availability of core services so that there is no waiting list for services due to lack of available providers.

d. A contract with an inpatient psychiatric hospital unit or state mental health institute within reasonably close proximity or written intent by an inpatient psychiatric hospital unit or state mental health institute to enter into such a contract.

25.91(7) to 25.91(9) Reserved.

25.91(10) *Staffing.* The department shall review the application to determine if the applicant provided written documentation and evidence of:

a. Clear lines of accountability.

b. The inclusion of one or more coordinators of disability services on the county administrator staff.

25.91(11) Reserved.

25.91(12) *Determination that formation of a region is unworkable.* The department shall review the application to determine if the applicant has provided documentation and convincing evidence that the applicant has evaluated the feasibility of forming into a region of three or more contiguous counties and that forming into such a region is unworkable.

25.91(13) *Compliance with requirements of a mental health and disability services region.* The applicant shall continuously fulfill all of the requirements of a region under Iowa Code chapters 331 and 225C for a regional service system, regional service system management plan, regional governing board, and regional administrator and any other requirements applicable to a region of counties providing local mental health and disability services. If the applicant does not fulfill these requirements, the department may address the deficiencies in the following order:

a. Require compliance with a corrective action plan that may include, but is not limited to, participation in technical assistance provided or arranged by the department, revision of the regional management plan, or other corrective actions required by the department.

b. Reduce the amount of the annual state funding provided through the mental health and disabilities regional services fund for the regional service system, not to exceed 15 percent of the amount of the annual state funding.

c. Withdraw approval for the county exemption.

This rule is intended to implement Iowa Code section 331.389.

[ARC 0576C, IAB 2/6/13, effective 1/8/13; ARC 0735C, IAB 5/15/13, effective 8/1/13]

441—25.92 to 25.94 Reserved.

DIVISION IX DATA SUBMISSION TO DETERMINE MEDICAID OFFSET FOR COUNTIES

PREAMBLE

These rules define the department's standards for the submission of county mental health and disability services expenditure data so that the department can calculate the Medicaid offset for each county consistent with 2014 Iowa Acts, House File 2473, section 82.

[ARC 1671C, IAB 10/15/14, effective 9/25/14]

441—25.95(426B) Definitions.

“Department” means the Iowa department of human services.

“Medicaid offset amount” means the amount resulting from the calculations described in Iowa Code section 426B.3 as amended by 2014 Iowa Acts, House File 2463, section 82(5)“d.”

“Uniform chart of accounts for Iowa county governments” means the set of codes used by counties to organize and delineate revenues and expenditures. The codes related to mental health and disability services expenditures identify diagnosis and types of services.

[ARC 1671C, IAB 10/15/14, effective 9/25/14]

441—25.96(426B) Data to determine Medicaid offset. Each county must submit to the department a report that provides the county mental health and disability services data needed to calculate the Medicaid offset for the county.

25.96(1) Data required. Each county is required to submit expenditure data as specified by the department based on the agreement by the department and representatives of the mental health and disability services regions consistent with the requirements of Iowa Code section 426B.3 as amended by 2014 Iowa Acts, House File 2463, section 82(5)“b.”

25.96(2) Submission of mental health and disability services data.

a. Counties must submit the required data to the department by 4:30 p.m. on September 19, 2014, consistent with data submissions as required in subrule 25.41(3).

b. If a county fails to submit data within the required time frame or a county submits data that is demonstrably inaccurate, the department will use a pro-rata methodology to determine the county’s Medicaid offset using data submitted by other counties.

[ARC 1671C, IAB 10/15/14, effective 9/25/14]

These rules are intended to implement Iowa Code section 225C.6 and 2014 Iowa Acts, House File 2463, section 82.

441—25.97 to 25.100 Reserved.

DIVISION X
MENTAL HEALTH ADVOCATES

PREAMBLE

This division establishes definitions, appointment and qualifications, assignment, responsibilities of the advocate and the county, data collection requirements, and quality assurance for mental health advocate services under Iowa Code chapter 229.

[ARC 2438C, IAB 3/16/16, effective 5/1/16]

441—25.101(229) Definitions.

“Advocate” means mental health advocate as defined in Iowa Code section 229.1.

“Conflict of interest” means any activity that interferes or gives the appearance of interference with the exercise of professional discretion and impartial judgment.

“County of residence” means the same as defined in Iowa Code section 331.394.

“County of venue” means the county in which the Iowa Code chapter 229 commitment was filed pursuant to Iowa Code section 229.44.

“County where the individual is located” means the individual’s county of residence as defined in Iowa Code section 331.394, or if the individual has been ordered to receive treatment services under an Iowa Code chapter 229 commitment and is placed in a residential or other treatment facility.

“Individual” means the respondent who is receiving mental health advocate services under Iowa Code chapter 229.

“Judicial district” means the same as defined in Iowa Code section 602.6107.

“Mental health and disability services region” means the same as defined in Iowa Code section 331.389.

[ARC 2438C, IAB 3/16/16, effective 5/1/16]

441—25.102(229) Advocate appointment and qualifications. The board of supervisors of each county shall appoint a person to act as an advocate representing the interests of individuals involuntarily hospitalized by the court under Iowa Code chapter 229. The advocate is hired by the board of supervisors and employed by the county.

25.102(1) A person may be appointed and employed or contracted with as the advocate by one county or by multiple counties. Advocates may be appointed for counties in more than one judicial district or more than one mental health and disability services region.

25.102(2) Qualifications.

a. The advocate shall meet the following qualifications:

(1) Possess a bachelor's degree with 30 semester hours or equivalent quarter hours in a human services field (including, but not limited to, psychology, social work, mental health counseling, marriage and family therapy, nursing, education, occupational therapy, and recreational therapy) and at least one year of experience in the delivery of services to persons with mental illness; or

(2) Hold an Iowa license to practice as a registered nurse and have at least three years of experience in delivery of services to persons with mental illness.

b. A person employed as an advocate on or before July 1, 2015, who does not meet the requirements of subparagraph 25.102(2)“*a*”(1) or (2) shall be considered to meet those requirements so long as the person is continuously appointed as an advocate in the employing county.

c. A person employed as an advocate must pass criminal background, sex offender registry, and child and dependent adult abuse registry checks before hire.

[ARC 2438C, IAB 3/16/16, effective 5/1/16]

441—25.103(229) Advocate assignment. The committing court shall assign the advocate from the county where the individual is located.

25.103(1) If the advocate assigned cannot serve the individual in an effective and efficient manner, the advocate may request another advocate to perform advocate duties on the individual's behalf. In the event that another advocate can better represent the individual on a longer term basis, the advocate shall request that the court transfer the individual to another advocate.

25.103(2) When a conflict of interest is identified between an advocate and an individual, the court and the advocate's county of employment shall be notified and an alternative advocate shall be assigned. The advocate's direct supervisor is responsible to monitor and ensure that the advocate does not have a conflict of interest. In instances when dual or multiple relationships are unavoidable, advocates should take steps to protect individuals and are responsible for setting clear, appropriate, and culturally sensitive boundaries. Advocates who anticipate a conflict of interest among the individuals receiving services should clarify the advocate's role with the parties involved and take appropriate action to minimize any conflict of interest.

25.103(3) When the advocate assigned is not the advocate from the individual's county of residence, the advocate's county of employment may seek reimbursement from the region in which the individual's county of residence is located as outlined in Iowa Code section 229.19(1)“*b.*”

25.103(4) An advocate shall only be assigned to a child 17 years of age or under when the child is not represented by an attorney due to an existing child in need of assistance (CINA) or other juvenile court action pursuant to the Iowa Code.

[ARC 2438C, IAB 3/16/16, effective 5/1/16]

441—25.104(229) Advocate responsibilities. The minimum duties of the advocate are outlined in Iowa Code section 229.19. The role of the advocate is to ensure that the rights of the individual are upheld.

25.104(1) The advocate shall be readily accessible to communication from the individual and shall initiate contact within 5 days of the individual's commitment. The advocate shall inform the individual regarding the role of the advocate.

25.104(2) The advocate shall meet the individual in person within 15 days of the individual's commitment. The advocate shall present the county grievance procedure process, in writing, to the individual. The presentation shall include the county grievance procedure and contact information and

the contact information for the citizens' aide/ombudsman. The advocate shall inform the individual about the mental health crisis services that are available.

25.104(3) The advocate shall review each report submitted to the court and communicate with the individual's medical and treatment team. Advocates shall abide by all federal, state, and local confidentiality laws.

25.104(4) The advocate shall file with the court Iowa Ct. R. 12.36—Form 30, quarterly reports for each individual assigned to the advocate. The report shall state the actions taken with the individual and amount of time spent on behalf of the individual.

25.104(5) The advocate shall maintain an organized confidential and secure file for each individual served. The file shall contain but not be limited to:

- a. Copies of quarterly reports submitted to the court.
- b. Copies of correspondence sent to and received from the individual, family members, providers and others.
- c. Releases of information.
- d. Case notes describing the date, time and type of contact with the individuals or others and a brief narrative summary of the content or outcome of the contact.

e. Documents filed with the court electronically shall be considered as part of the individual's file.

25.104(6) The advocate shall register as provided in Iowa Ct. R. 16.305(1) to participate in the court's electronic document management system and shall submit all documents to be filed with the court electronically. The documents will be stored as electronic records that are retrievable and readable through the electronic document management system.

25.104(7) The advocate, as an employee of the county, shall comply with all county policies and procedures, including but not limited to hiring, supervision, grievance procedures, and training.

25.104(8) All advocate records are the property of the county, which is responsible for the provision of confidential storage, transfer, and destruction of client files, including those maintained on electronic and digital devices, with access limited according to the county's policy on confidentiality as described in subrule 25.105(6).

25.104(9) The advocate may attend the hospitalization hearing of an individual represented by an attorney; however, payment for the advocate's attendance is at the discretion of the county of employment.

[ARC 2438C, IAB 3/16/16, effective 5/1/16]

441—25.105(229) County responsibilities. As the employer of the advocate, the county shall provide qualified staff to support and facilitate the provision of quality advocate services. The county shall:

25.105(1) Assign a single supervisor, a single contract manager, or the county board of supervisors as the supervising entity to carry out responsibilities in this chapter.

25.105(2) Have a job description in the personnel file of the advocate that clearly defines the advocate's responsibilities and qualifications as defined in Iowa Code section 229.19 and in rule 441—25.104(229).

25.105(3) Have a process to verify, within 90 days of the advocate's hire, qualification of the advocate, including degrees and certifications obtained from a primary source.

25.105(4) Provide to the advocate training and education relevant to the position, including but not limited to overview of mental health diagnosis and treatment, the mental health and disability services delivery system, confidentiality, individual rights, professional conduct, the role of advocacy and service coordination within an interdisciplinary team, Iowa Code and administrative rules, and court procedures.

25.105(5) Provide approved training on child and dependent adult abuse reporter requirements.

25.105(6) Provide to any employee with access to individuals' files training on state and federal laws regarding nondisclosure and confidentiality of client protected health information during and after employment and maintain in the personnel files a signed document indicating the employee's awareness of the county's policy on confidentiality.

25.105(7) Complete criminal background, sex offender registry and child and dependent adult abuse registry checks before employment of the advocate. Any person who does not pass these checks is prohibited from being hired, or continuing to serve, as an advocate.

25.105(8) Provide advocate staff to cover the county's caseload at all times, according to, but not limited to, each county's unique number of individuals assigned to the advocate, travel required, types of settings where the individuals reside, services available and extended staff absences.

[ARC 2438C, IAB 3/16/16, effective 5/1/16]

441—25.106(229) Data collection requirements.

25.106(1) Beginning in 2016 and by December 1 each year, each county shall submit to the department of human services data regarding each individual who received advocate services during the previous state fiscal year.

25.106(2) As defined in rule 441—25.41(331), the data to be submitted are as follows:

- a. Basic information about the individual, including a unique identifier and county of residence.
- b. Demographic information, including the individual's date of birth, sex, ethnicity, education, and diagnosis made in accordance with the criteria provided in the current version of the Diagnostic and Statistical Manual of Mental Disorders (DSM) published by the American Psychiatric Association (APA).
- c. Commitment information, including the date of the individual's initial commitment, type of commitment order, whether a juvenile or adult case, date of commitment and name of treatment facility the individual is committed to, any subsequent changes in treatment facility, and date commitment is terminated.

[ARC 2438C, IAB 3/16/16, effective 5/1/16]

441—25.107(229) Quality assurance system. The county shall implement a quality assurance system which:

1. Annually measures and assesses advocates' activities and services.
2. Gathers feedback from stakeholders including individuals using advocate services, family members, court staff, service provider staff, and regional staff regarding advocate services.
3. Implements an internal review of individual records.
4. Identifies areas in need of improvement.
5. Develops a plan to address the areas in need of improvement.
6. Implements the plan and documents the results.

[ARC 2438C, IAB 3/16/16, effective 5/1/16]

These rules are intended to implement Iowa Code chapter 229.

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◊ Two or more ARCs

CHAPTER 151
JUVENILE COURT SERVICES DIRECTED PROGRAMS

[Prior to 7/1/83, Social Services[770] Ch 141]
[770—Ch 141 renumbered as 498—Ch 209, IAB 2/29/84]
[Agency number changed from [498] to [441] IAB 2/11/87]
[Prior to 7/26/89, 441—Ch 209]

PREAMBLE

These rules prescribe services for eligible children for reimbursement from funds appropriated specifically for juvenile court services directed programs. The state court administrator and chief juvenile court officers have primary responsibility for the administration of court-ordered services (COS) and graduated sanction services for eligible children. The graduated sanction services are also known as “early intervention and follow-up services” or “community-based delinquency programs.” The COS and graduated sanction funds shall also be used to enhance the education and performance of those employees who are directly involved with the clients and their programs.

The juvenile court services directed programs addressed in this chapter include court-ordered services and three graduated sanction programs: community-based interventions; school-based supervision; and supportive enhancements. The rules establish the criteria for the allocation of funds and the procedures for administration, application, eligibility, appeals, service delivery, and billing and payment.

[ARC 2435C, IAB 3/16/16, effective 5/1/16]

DIVISION I
GENERAL PROVISIONS

PREAMBLE

These rules, pursuant to the authority granted in the Iowa Code and annual appropriations Acts, prescribe the relationship between the state court administrator (the judicial branch), the chief juvenile court officer from each judicial district, and the department of human services (the executive branch) in the administration of the funds for the juvenile court services directed programs. These rules also prescribe the joint responsibilities of the chief juvenile court officers and the department’s service area managers for the planning and implementation of an annual child welfare and juvenile justice plan for each department service area.

441—151.1(232) Definitions.

“*At risk*” or “*high risk*” means that a child has been referred to juvenile court services for a delinquency violation or has exhibited behaviors likely to result in a juvenile delinquency referral.

“*Case file*” means a paper or electronic file that includes referral information, information generated during assessment, documentation of court proceedings, other eligibility determinations, case plans, and case reports, including quarterly progress reports. Case files of providers also include records of provider-child contact that document provision of services.

“*Case record*” means a minimal record that identifies the child and the service provided and documents the child’s eligibility. A case record is maintained when a case file is not required.

“*Certification of the court*” means that the chief juvenile court officer has determined that (1) the court-ordered services fall within the defined services pursuant to Iowa Code section 232.141, subsections (4) and (5), and (2) there are sufficient funds in the district’s fiscal year fund allocation to pay for all court-ordered services.

“*Child*” means a person under 18 years of age. “Child” also includes a person up to 19½ years of age when (1) the person is adjudicated delinquent and the dispositional order is entered while the person is 17 years of age (in which case, the order terminates 18 months after the date of disposition), or (2) the person, as an adult, has been transferred to the jurisdiction of the juvenile court and is adjudicated as having committed a delinquent act before becoming an adult (in which case, the dispositional order

automatically terminates 18 months after the last date upon which jurisdiction could attach). Also included is a juvenile who has been adjudicated by the court to have committed a delinquent act upon the child reaching 18 years of age until the child is 21 years of age, if the child and juvenile court services determine the child should remain under the guidance of juvenile court services.

“Child welfare and juvenile justice plan” means the annual plan for using decategorized funds within each department service area.

“Court-ordered services” means the defined or specific care and treatment that are ordered by the court for an eligible child and for which no other payment source is available to cover the cost.

“Department” means the department of human services.

“Eligible child” means a child who has been adjudicated delinquent, is at risk, or has been certified by the chief juvenile court officer as eligible for court-ordered services.

“Graduated sanction services” means community-based interventions; school-based supervision; and supportive enhancements. Graduated sanction services are provided in community-based settings to an eligible child who is adjudicated delinquent or who is at risk of adjudication. Services are directed to help the child transition into productive adulthood and to prevent or reduce criminal charges, out-of-home placement, and recidivism. Graduated sanction services are also known as “early intervention and follow-up services” or “community-based delinquency programs” and are intended to enhance life skills of eligible children by providing quality services and purchasing goods to achieve individual and programmatic outcomes. Purchase of goods and services shall be monitored to ensure compliance with state and federal limitations on use of funds.

“Juvenile court officer” means a person appointed as a juvenile court officer or a chief juvenile court officer under Iowa Code chapter 602.

“Provider” means a public agency, including a school district or government unit, or a private agency, organization or eligible individual authorized to do business in the state. The provider is also known as the claimant.

[ARC 2435C, IAB 3/16/16, effective 5/1/16]

441—151.2(232) Administration of funds for court-ordered services and graduated sanction services. Pursuant to the authority granted in Iowa Code chapters 232, 602, 7E, and 8 and the annual appropriations Acts, the executive branch, represented by the department, and the judicial branch, represented by the state court administrator and the chief juvenile court officers, are each charged with specific responsibilities for funding, administering, and providing graduated sanction services and court-ordered services.

151.2(1) Allocations for court-ordered services. Court-ordered services are funded by an appropriation made to the department for allocation by the state court administrator.

a. The state court administrator shall allocate the funds, minus the administrative set-aside specified in the appropriations bill, to the eight judicial districts for the payment of the expenses of court-ordered services provided to juveniles that are a charge upon the state pursuant to Iowa Code section 232.141, subsection (4), and also as allowed by subsection 5.

b. The state court administrator may use not more than the administrative set-aside, specified in the appropriations bill, for the costs of administering the court-ordered services program, including the costs of travel associated with court-ordered placements, that are a charge to the state pursuant to Iowa Code section 232.141, subsection (4).

c. The state court administrator shall allocate the funds, minus the administrative set-aside, among the judicial districts on or before the date directed by the legislature.

(1) The state court administrator shall base the allocation on each district’s respective portion of the statewide population of children as reported in current census data.

(2) The source of the census data shall be determined and agreed upon by the state court administrator and the chief juvenile court officers.

151.2(2) Allocations for graduated sanction services. Graduated sanction services are funded by an appropriation to the department. The department allocates the funds to the state court administrator

and to the chief juvenile court officers for administration. The funds are allocated and administered as follows:

a. The department shall allocate a set-aside amount up to, but not to exceed, 20 percent of the total allocation for graduated sanction services for the state court administrator to pay the administrative costs of the graduated sanction services, including the costs of a contract administrator accountant position established in each judicial district. The contract administrator accountant is responsible to assist in producing data, promoting fiscal efficiencies related to criminogenic risk factors, and monitoring outcome measurements for eligible children served. The contract administrator accountant will also support ongoing development, implementation, and monitoring of evidence-based practices.

b. The state court administrator shall:

(1) Establish and implement a written job classification and pay schedule for the contract administrator accountant positions; and

(2) Administer the set-aside for the eight judicial districts.

c. The department shall allocate the graduated sanction services funds, minus the administrative set-aside, among the eight judicial districts based on each district's respective portion of the statewide population of children as reported in current census data. The source of the census data shall be determined and agreed upon by the department and the chief juvenile court officers.

151.2(3) *Transfer of funds to a decategorization governance board for administration.* Funds allocated to a district for court-ordered services or graduated sanction services, less the administrative set-asides, may be transferred to a decategorization governance board for administration.

a. To initiate a transfer of funds to a decategorization governance board:

(1) The chief juvenile court officer shall submit to the chair of the decategorization governance board a written notice of intent to transfer the funds to the board. The chief shall include in the notice a statement identifying any special conditions or limitations to which the funds would be subject. If no statement identifying any special conditions or limitations to which the funds would be subject is included, then no special conditions or limitations apply.

(2) The chair of the decategorization governance board shall provide the chief juvenile court officer with a written statement of acceptance of the funds; otherwise the chief juvenile court officer shall not transfer the funds. When the chief juvenile court officer has identified special conditions or limitations that apply to the funds, the decategorization governance board chair's signature on the written statement of acceptance of the funds indicates agreement with the special conditions or limitations.

(3) The chief juvenile court officer shall submit the written request to transfer the funds and the written statement of acceptance to the department.

b. The department must receive a signed agreement transferring the funds before the department signs any contract using the funds.

c. The decategorization governance board may authorize the chief juvenile court officer to act on behalf of the decategorization governance board in the administration of the funds, but is not required to do so. An authorization from the decategorization governance board granting authority to the chief juvenile court officer to act on behalf of the decategorization governance board in the administration of the funds must be in writing and must be received by the department before the department representative signs any contract using the funds. The request and authorization to administer the funds may be included in the request and agreement to transfer the funds.

d. Funds transferred to a decategorization governance board for administration are subject to the same audit requirements as specified in 151.6(1).

151.2(4) *Availability of funds.* The chief juvenile court officers, the state court administrator, and the department shall monitor the availability of the court-ordered services funds to ensure that funds are available within each district throughout the state fiscal year. The chief juvenile court officers and the department shall monitor the availability of the graduated sanction services funds to ensure that the funds are available within each district throughout the state fiscal year.

a. The department shall provide to each contract administrator accountant at the start of each state fiscal year a blank electronic report, known as the "Y" form, as well as a spreadsheet showing the amount of the district's allocations for graduated sanction services. The state court administrator shall determine

and provide to each district at the start of each state fiscal year the amount of the district's allocation for court-ordered services.

b. Each contract administrator accountant shall enter on the "Y" form the annual allocation and expenditures of funds of each service.

c. The department shall:

(1) Use the information provided by each contract administrator accountant to prepare an annual electronic report, known as the Form Y Summary, showing the statewide balance of service funds, as well as the cumulative expenditures and fund transfers for each service for each district; and

(2) Distribute the Form Y Summary annually to the state court administrator and to department and juvenile court services management.

d. The chief juvenile court officers, in consultation with the department or the state court administrator, shall reallocate funds as needed to ensure the availability of graduated sanction services and court-ordered services on a statewide basis throughout the state fiscal year.

e. If funding for either graduated sanction services or court-ordered services is exhausted in any district, the respective services within that district shall be discontinued.

[ARC 2435C, IAB 3/16/16, effective 5/1/16]

441—151.3(232) Administration of juvenile court services programs within each judicial district. Each chief juvenile court officer is responsible for the administration of the court-ordered services and graduated sanction services within the judicial district. The chief juvenile court officer shall purchase court-ordered services and graduated sanction services on behalf of eligible children within the judicial district.

151.3(1) Planning for service needs.

a. Each chief juvenile court officer shall develop a process for determining:

(1) The service needs of the children within the district; and

(2) The mix of services to be provided to best meet the identified needs within the district.

b. Each chief juvenile court officer and service area manager shall develop, sign, and implement an annual plan for prioritizing and allocating decategorized funds within each department service area. The plan shall be known as the child welfare and juvenile justice plan.

c. Each chief juvenile court officer shall develop procedures to evaluate and improve the quality and effectiveness of the services being provided. The chief juvenile court officer shall make recommendations concerning changes in the child welfare system that are needed to ensure that children and families receive the services necessary to meet their unique needs. These recommendations may be incorporated into the annual child welfare and juvenile justice plan.

151.3(2) Eligible providers. The chief juvenile court officer shall purchase court-ordered services or graduated sanction services from public or private agencies, organizations, or eligible individuals. To be eligible to provide services, an individual shall meet one of the following criteria:

a. Have a federal identification number; or

b. Have a social security number for which the state accounting enterprise has determined that an employee/employer relationship with the state does not exist; or

c. Be paid an amount during a state fiscal year that does not exceed \$1,000 plus allowable expenses such as meals, lodging, and mileage per state fiscal year as determined according to state accounting enterprise procedure 240.102.

151.3(3) Allowable costs. The administrative and program requirements of this chapter include those costs specified below:

a. Reimbursement for mileage, meals, and lodging expenses involved in the transportation of the child shall not exceed the lower of the rates set by the state executive council or the provider's customary rate, unless the transportation is provided by a public officer or employee. A public officer or employee, other than a state officer or employee, is entitled to be paid for expenses as specified in the Iowa Code in an amount as determined:

(1) By the public officer's or employee's local governing board when the court order specifies that the public officer or employee is to provide the transportation. The allowable expenses for which sheriffs may be reimbursed are found at Iowa Code sections 70A.9 and 331.655.

(2) By the chief juvenile court officer when the court order does not specify that the public officer or employee is to provide the transportation.

b. For Medicaid-covered services, the provider shall be reimbursed at the same rate and duration as Medicaid reimburses under the fee schedule provided in 441—subrule 79.1(2) unless the chief juvenile court officer determines that a rate negotiated with the provider may be paid.

c. A provider with a purchase of service contract for a similar service shall be reimbursed at the rate of the purchase of service contract. A provider that does not have a purchase of service contract shall be reimbursed at a rate comparable to the rate reimbursed to providers that have purchase of service contracts.

d. Private insurance allowances may be supplemented up to, but shall not exceed, the amounts allowed in this subrule. Funds for court-ordered care and treatment or graduated sanction services shall not be used in lieu of private insurance.

e. A provider shall not be reimbursed at a rate that is greater than that allowed by administrative rules. Reimbursement paid to a provider shall be considered paid in full unless the county voluntarily agrees to pay the difference between the reimbursement rate and the actual costs of the service. When there are specific program regulations prohibiting supplementation, such as the prohibition of supplementation of Medicaid reimbursement, those regulations shall be applied to providers requesting supplemental payments.

151.3(4) *Record keeping.* The provider and juvenile court services shall maintain financial and service records for a period of five years following termination of services. The records are subject to audit.

a. Each provider shall maintain all the financial and service records used to submit or substantiate claims for reimbursement, including court orders as required and lists of the children served. The provider bears ultimate responsibility for the completeness and accuracy of the claim submitted as set forth in these rules.

b. Each provider shall maintain all the corresponding service and financial information necessary to document the provision of the service as agreed upon in the contract. When the contract identifies units of service to be provided, each provider shall maintain a case record or case file that documents the provision of the units of the contracted service for each individual child for whom a claim is made.

c. Each juvenile court officer shall maintain a case record for each child referred for graduated sanction service. Each juvenile court officer shall maintain a case file for each child who receives an ongoing service. The case record or case file shall include all the corresponding service information necessary to document that the contracted service was provided.

d. Each chief juvenile court officer shall ensure that an original court order supports the payment of any claim paid for court-ordered services.

e. Each chief juvenile court officer shall ensure that the district is accountable for payments, receipts, and retention of records as described in subrule 151.4(7).

151.3(5) *Access to records.* Each provider of court-ordered services or graduated sanction services shall make available upon request to juvenile court services, the department, the department of inspections and appeals, or the state auditor the service and financial records used to support or substantiate claims for reimbursement, including court orders and lists of children. The records shall be subject to audit by juvenile court services, the department, the department of inspections and appeals, or the state auditor.

441—151.4(232) *Billing and payment.* The chief juvenile court officer shall ensure that billing and payment are in compliance with department requirements and the requirements of the accounting policies and procedures manual of the department of administrative services, state accounting enterprise. A claim that meets the requirements of this chapter becomes a state liability on the date of a claim's accrual. The

date of a claim's accrual is the date the service was provided, the end of the agreed-upon billing interval specified in the contract, or the date of a determination of liability for the claim.

151.4(1) *Claim forms and instructions.* The instructions and forms used for billing shall be available to the provider from each judicial district office. Electronic versions of all forms are available.

a. Court-ordered services.

(1) The provider shall prepare a claim for court-ordered services on Form GAX, General Accounting Expenditure. An original, itemized invoice may accompany a Form GAX in lieu of a claimant's original signature.

(2) Juvenile court services shall maintain an approved application with court order to validate payment for services.

b. Community-based intervention and supportive enhancements.

(1) The provider shall prepare a claim for community-based intervention and supportive enhancements on Form GAX, General Accounting Expenditure.

(2) The provider shall also submit an approved invoice or a copy of the provider's list of the eligible children for whom the claim is made. The document submitted shall include the name of each child and the number of units of service provided to that child each month.

c. School-based supervision. The provider shall prepare a claim for school-based supervision on Form GAX, General Accounting Expenditure.

151.4(2) *Preparation of claim.* Form GAX, General Accounting Expenditure, shall be submitted with all claims. The Form GAX submitted shall not include claims for more than one fiscal year. The provider, as vendor, must enter on Form GAX:

- a.* The vendor code,
- b.* The vendor's name and mailing address,
- c.* The vendor's service month,
- d.* A short description of the item or service that was purchased, and
- e.* A claimant original signature of the provider unless an original invoice is submitted.

151.4(3) *Support of claim.* The provider bears ultimate responsibility for the completeness and accuracy of each claim submitted. The provider must maintain a record of the days and times during which each service was provided for each eligible child. The provider's record must correspond to the units billed.

151.4(4) *Submittal of claims to juvenile court services.* Providers shall submit claims to the contract administrator accountant in the judicial district in which the service was provided. The provider shall submit the original Form GAX and any required support of claim pursuant to subrule 151.4(3).

a. Claims shall be submitted timely to allow the chief juvenile court officer to submit the claim to the department within 90 calendar days of the date of the claim's accrual.

b. To ensure payment from funds appropriated for the fiscal year, claims shall be submitted timely to allow the contract administrator accountant to submit the claim to the department within 45 calendar days of fiscal year end, June 30.

151.4(5) *Review and approval of claims.* The chief juvenile court officer is responsible for accuracy and disposition of claims. The contract administrator accountant shall verify the accuracy of the provider's billings and approve the claims.

a. Juvenile court services may complete Form GAX when the provider submits an original invoice or may enter the following information on Form GAX when the provider has omitted it from the form:

- (1) The name and mailing address of the agency or individual providing the services.
- (2) A short description identifying the specific services or item purchased. The description will be entered on the warrant sent to the provider.

b. To approve the claim, the chief juvenile court officer or designee shall sign Form GAX in the space titled, "order approved by." The signature shall be deemed as certification that the billed expenses were incurred, that the amounts are correct, and that payment should be made by the department.

151.4(6) *Juvenile court services submittal of claims to department.* The contract administrator accountant shall prepare and submit claims to the department. Juvenile court services shall make the required number of copies for submittal and shall submit the required documents to the Department of

Human Services, Division of Fiscal Management, Bureau of Purchasing, Payments and Receipts, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. The documents required to be submitted are as follows:

a. New contract and any contract amendments. For the first claim submitted for a new contract or a contract amendment, juvenile court services must submit:

- (1) Two copies of the signed contract or signed contract amendment.
- (2) Two copies of the Pre-Contract Questionnaire.
- (3) The original and one copy of Form GAX, showing the contract number, if applicable.

b. Ongoing contract. For subsequent claims for contract payment, juvenile court services shall submit the original and one copy of Form GAX, which shall include the contract number, if applicable.

151.4(7) Claim records. The chief juvenile court officer or approved administrator shall have responsibility for retention of records, maintenance of records, and authorized access to records.

a. Juvenile court services shall retain one copy of the claim and supporting documentation as submitted to the department as well as any additional required supporting documentation submitted to juvenile court services by the provider. The copy of Form GAX and supporting documentation, as submitted to the department, as well as any additional required supporting documentation submitted to juvenile court services by the provider, are subject to audit.

b. Each chief juvenile court officer shall establish a system for retention of the records in an organized, audit-friendly manner. During the required retention period, the records and knowledgeable personnel must be accessible and available for the audit. All documents related to each other must be appropriately attached and organized in a manner that provides easy access.

151.4(8) Claim payment. The department shall reimburse providers for contract costs when claims are submitted according to the required procedures.

a. The bureau of purchasing, payments and receipts of the division of fiscal management shall process a claim through the state appeal board's administrative process for approving outdated invoices when the department receives the claim:

- (1) More than 90 calendar days after the date of its accrual; or
- (2) More than 45 calendar days after the date of its accrual at fiscal year end, June 30.

b. If the claim cannot be processed through the state appeal board's administrative process for approving outdated invoices, the claim must be submitted to the state appeal board for approval.

[ARC 2435C, IAB 3/16/16, effective 5/1/16]

441—151.5(232) Appeals. If services are court-ordered, children who have been adversely affected by decisions made by juvenile court and their parents or guardians may appeal through procedures established pursuant to Iowa Code section 232.133.

441—151.6(232) District program reviews and audits. Each chief juvenile court officer shall establish procedures to review and audit the provision of the graduated sanction services to ensure that the requirements of this chapter and the contracts are met. The contract administrator accountant as established according to subrule 151.2(2) shall conduct the reviews and audits.

151.6(1) Schedule. The department shall notify each chief juvenile court officer or designee of the providers for which a review and audit must be conducted. The department shall identify in the notice all other judicial districts that have a contract with the provider.

a. Annual on-site reviews and audits are required for any provider having one or more contracts with one or more judicial districts when the total annual value of the contracts is \$100,000 or more.

b. An on-site review and audit are required for each provider new to the district during the first year of the provider's contract with the district when the total annual value of the provider's contracts with the judicial district is \$50,000 or more.

c. Additional on-site reviews and audits are optional but may be considered appropriate by the chief juvenile court officer for providers, other than those described in paragraphs "a" and "b," based on factors such as:

- (1) Length of time provider has been in business.

- (2) Amount of time provider has offered the services being purchased.
- (3) Type of service or program being purchased.
- (4) Amount of money involved in the contract.
- (5) Whether other governmental entities contract with this provider.
- (6) Findings from previous audits by the district, the department, or other entities such as the state auditor's office.

151.6(2) Location. The reviews and audits shall take place at the sites where the program is operated and where necessary program and fiscal records are maintained.

151.6(3) Scope. The contract administrator accountant shall review and audit the provider's service and financial records, including the client case records and case files, to ensure that the records contain the required documentation of the provision of the contracted service for each individual child for whom a claim is made. The reviews and audits shall include:

- a. Contact with the client.
- b. Review and audit of service billings and delivery of service.
- c. Review and audit of provider standards, staff qualifications, case files and case records, progress reports, and billing and payment records.

151.6(4) Repayment. The chief juvenile court officer may seek repayment of claims paid for noncovered services or for services for which documentation is not established.

a. The chief juvenile court officer shall notify the provider in writing that a repayment is due. The written notice shall identify:

- (1) The claims;
- (2) The amounts of the claims that are not documented or substantiated; and
- (3) The amount of the repayment requested.

b. The provider shall repay the department the difference between the amount received and the amount established through the audit, not to exceed the amount paid by the state, when:

(1) The provider, upon audit, fails to verify or document the provision of covered services or costs in the amount for which a claim was paid or when the audit confirms claims paid for noncovered services; and

(2) Juvenile court services or the department makes a request for repayment.

c. The provider shall repay the department for the amount of any claims not supported by audit when:

(1) The provider fails to maintain adequate records for auditing purposes or fails to make records available for audit or when the records, upon audit, fail to support the claims submitted; and

(2) Juvenile court services or the department makes a request for repayment.

d. A provider that is adversely affected by the request for repayment may appeal using procedures established in 441—Chapter 7.

e. If the provider does not make payment within 60 days, the chief juvenile court officer shall submit to the department a copy of the notice to the provider for the department's review and further action if necessary.

151.6(5) Report. Each contract administrator accountant shall submit to the department an annual report of the district's review and audit activities for each state fiscal year.

a. The annual report shall be submitted by December 31 following the end of the state fiscal year. This date may be extended upon the written request of the chief juvenile court officer to the department.

b. The annual report shall include a report of the results of the review and audit for each required audit as well as a summary of the findings of the reviews and audits conducted on any other providers receiving state or federal funds in the state fiscal year.

[ARC 2435C, IAB 3/16/16, effective 5/1/16]

These rules are intended to implement Iowa Code section 232.141.

441—151.7 to 151.19 Reserved.

DIVISION II
COURT-ORDERED SERVICES

PREAMBLE

These rules prescribe the responsibilities of the chief juvenile court officers and the department of human services for the administration of court-ordered services. In addition, these rules prescribe a list of expenses that are eligible for reimbursement and a list of expenses that are ineligible for reimbursement. The lists are intended to be exhaustive.

441—151.20(232) Juvenile court services responsibilities. The chief juvenile court officer shall purchase court-ordered services for eligible children pursuant to the authority of a court order and the certification of the court.

151.20(1) The chief juvenile court officer shall have the opportunity to establish the availability of funds before a request for court-ordered services is presented to the court.

151.20(2) Any services that are provided without the signed approval of the chief juvenile court officer or approved administrator may be denied payment, unless there is an emergency or after-hours situation and no other provision exists for handling emergency or after-hours situations or transports.

151.20(3) A district or juvenile court shall not order any service that is a charge upon the state pursuant to Iowa Code section 232.141 if there are insufficient court-ordered services funds available in the district court distribution amount to pay for the service.

151.20(4) The chief juvenile court officer shall encourage use of the funds in the district's fiscal year fund allocation such that there are sufficient funds during the entire year to pay for all court-ordered services.

a. The chief juvenile court officer shall establish service priorities for spending the court-ordered services funds allocated to the district.

b. The chief juvenile court officer shall inform the state court administrator of potential shortfalls in the district's distribution amount and shall request the state court administrator to transfer funds between the districts' distribution amounts as prudent.

c. The chief juvenile court officer shall notify the state court administrator and the chief judge of the district in the event that the court-ordered services funds for the judicial district are exhausted.

[ARC 2435C, IAB 3/16/16, effective 5/1/16]

441—151.21(232) Certification process. The chief juvenile court officer or approved administrator shall determine the certification of the court for each ordered service.

151.21(1) Application for court-ordered services. Any party intending to request court-ordered services funds shall complete an application and receive approval for the funding request from the chief juvenile court officer or approved administrator.

a. The application form with instructions shall be available upon request from the office of each chief juvenile court officer.

b. The applicant shall have verified that there are no other alternative funding sources for the service.

c. The chief juvenile court officer or approved administrator may establish procedures for handling emergency or after-hours situations and for the handling of transports.

151.21(2) Determination. The chief juvenile court officer or approved administrator shall determine whether the requested service is eligible for reimbursement and shall certify that there are sufficient funds available to pay for the service. The chief juvenile court officer or approved administrator shall determine whether:

a. The requested service falls within the court-ordered services expenses defined in Iowa Code section 232.141, subsections (4) and (5), and subrule 151.22(1); and

b. There are sufficient funds in the district's fiscal year fund allocation to pay for the requested service.

151.21(3) *Use of other funding sources.* The department, in cooperation with the chief juvenile court officers, shall ensure that the funds allocated for court-ordered services are spent only after all other reasonable actions have been taken to use other funding sources. Services are not eligible for reimbursement when another payment source is available.

a. Medicaid. The department shall maximize the use of funds that may be available from the Medicaid program, including coverage for early and periodic screening, diagnosis, and treatment and for psychiatric medical institutions for children (PMIC), before requesting assistance through the court-ordered services fund. However, medical cost sharing for the one-time payment per court order of a deductible amount or a coinsurance amount for treatment specified in a court order is an allowable expense that may be paid through the court-ordered services fund when insurance or Medicaid is then available to pay the remainder of the cost.

b. Other third-party payments. The department shall recover payments from any third-party insurance carrier that is liable for coverage of the services, including health insurance coverage. The department shall submit claims to third-party insurance carriers liable for coverage of the services before the claims are submitted for payment through the court-ordered services fund.

c. The date of a medical claim's accrual for reimbursement through court-ordered services is the date the claim becomes a state liability. For example, a claim becomes a state liability on:

- (1) The date of a court order for a contested claim; or*
- (2) The date of a determination by Medicaid or private insurance that Medicaid or private insurance denies partial or full payment for care and treatment for which an application has been made.*

d. If eligible for reimbursement through the court-ordered services fund, medical claims that are submitted to, but are denied by, Medicaid or private insurance shall be paid at a rate not to exceed the rate set by Medicaid.

151.21(4) *Certification.* The chief juvenile court officer or approved administrator shall approve or disapprove the request for funds and shall sign and return the application to the applicant.

a. If the request is disapproved, the applicant must approach another service.

b. If the request is approved, the service plan may be presented to the court for a court order to be issued for the services.

151.21(5) *Allowable rates not available.* When the department has been unable to establish an allowable rate of reimbursement for a service or a provider, the chief juvenile court officer or approved administrator shall negotiate a reimbursement rate with the provider to obtain the service at a reasonable cost based on available community or statewide rates.

[ARC 2435C, IAB 3/16/16, effective 5/1/16]

441—151.22(232) *Expenses.* The following lists of expenses that are either eligible or ineligible for reimbursement from the court-ordered services fund are intended to be exhaustive. Billings for services not listed in subrule 151.22(1) shall not be paid except as provided in subrule 151.22(3).

151.22(1) *Expenses to be reimbursed.* The expenses for which reimbursement shall be made include:

a. Expenses, other than salary, incurred by a person ordered by the court, other than a juvenile court officer, in transporting a child to or from a place designated by the court, including mileage, lodging and meals.

b. The expense of care or treatment ordered by the court whenever the minor is placed by the court with someone other than the parents; or a minor is given a physical or mental examination or treatment under order of the court; or, upon certification by the department, a minor is given physical or mental examinations or treatment with the consent of the parent, guardian or legal custodian relating to a child abuse investigation and no provision is otherwise made by the law for payment for the care, examination, or treatment of the minor. Care and treatment expenses for which no other provision for payment is made by law that shall be reimbursable include court-ordered:

- (1) Individual services for the child separate from a family's treatment plan.*
- (2) Diagnosis and evaluation on an outpatient basis unless the diagnosis and evaluation is provided by a person or agency with a contract with the department for that service for which the child is eligible.*
- (3) An evaluation of a child in a residential facility.*

- (4) Inpatient (hospital) evaluation of a child previous to disposition.
- (5) Medical treatment for a child. This includes medical treatment while in detention in a facility used for detention when the medical treatment is court-ordered.
- (6) Drug treatment, testing and care for a child.
- (7) Intensive in-home supervision and monitoring and alternatives to shelter care unless a person or agency that has a contract with the department provides the service for which the child is eligible.
- (8) Evaluation of parents pursuant to a delinquent adjudication unless the diagnosis and evaluation is provided by a person or agency with a contract with the department for that service for which the child is eligible.
- (9) One-to-one supervision of a child not in a detention facility unless the service is provided by a person or agency with a contract with the department for that service for which the child is eligible.
- (10) Physical or mental examinations ordered pursuant to Iowa Code section 232.49 or 232.98 except those set forth in paragraph 151.22(2) "c" or those eligible for payment pursuant to Iowa Code chapter 249A.
- (11) Services ordered under family in need of assistance proceedings unless a person or agency with a contract with the department provides the service for which the child is eligible.
- (12) Expenses for all educational testing or programming for children, not weighted as special education students, who attend an on-campus school in an out-of-state facility.
- (13) Expenses for educational testing or programs related to a general equivalency diploma (GED) or for credit hours, when the expenses are not required to be paid by the state.
- c. Medical cost sharing for payment of one deductible amount or a coinsurance amount when Medicaid or private insurance is then available to pay the remainder of the cost.
- 151.22(2) Expenses not reimbursed.** Expenses that are excluded from reimbursement from court-ordered services funds because another source is available to pay for the service include:
 - a. Foster care (including shelter care). Payment provision is Iowa Code section 234.35.
 - b. All charges for which the county is obligated by statute to pay including:
 - (1) Care and treatment of patients by any state mental health institute. Payment provision is Iowa Code section 230.20(5).
 - (2) Care and treatment of patients by either of the state resource centers or by any other facility established under Iowa Code chapter 222. Payment provision is Iowa Code section 222.60.
 - (3) Care and treatment of patients by the psychiatric hospital at Iowa City. Payment provision is Iowa Code chapter 225.
 - (4) Care and treatment of persons at the alcoholic treatment center at Oakdale or any other facility as provided in Iowa Code chapter 125. Payment provision is Iowa Code section 125.44.
 - (5) Care of children admitted or committed to the Iowa juvenile home at Toledo. Payment provision is Iowa Code section 233B.14.
 - (6) Clothing, transportation, and medical or other service provided to persons attending the Iowa Braille and Sight-Saving School, the Iowa School for the Deaf, or the state hospital-school for severely handicapped children at Iowa City for which the county becomes obligated to pay pursuant to Iowa Code sections 263.12, 269.2, and 270.4 to 270.7.
 - (7) Expenses for detention in a facility used for detention. The payment provision is Iowa Code section 232.142.
 - (8) Care and treatment of persons placed in the county hospital, county care facility, a health care facility as defined in Iowa Code section 135C.1, subsection 6, or any other public or private facility in lieu of admission or commitment to a state mental health institute, resource center, or other facility established pursuant to Iowa Code chapter 222. Payment provisions are Iowa Code sections 222.50, 230.1 and 233B.14.
 - c. Child-abuse photos and X-rays. Payment provision is Iowa Code section 232.77.
 - d. Any expenses set forth in subrule 151.22(1) above, which qualify for payment pursuant to Iowa Code chapter 249A.
 - e. Expense of a child sexual abuse examination. Payment provision is Iowa Code section 915.41.
 - f. Expense of child day care. Payment provision is Iowa Code section 234.6.

- g. Expense of in-home treatment services. Payment provision is 441—Chapters 78, 79, and 83.
- h. Expense of homemaker-home health aide services. Payment provision is department of public health rules 641—Chapter 80.
- i. Expenses for all educational testing or programming required to be paid by the state, except for juveniles who attend an on-campus school in an out-of-state facility and who are not weighted as special education students. The payment provision is Iowa Code chapter 256.
- j. Expenses, except for the allowable medical cost sharing, for all court-ordered counseling and treatment for adults, including individual, marital, mental health, substance abuse and group therapy. The payment provision is private insurance, Medicare, Medicaid, or other resources consistent with Medicaid and social services eligibility and Iowa Code chapter 249A.
- k. Expenses, except for the allowable medical cost sharing, for psychiatric medical institutions for children (PMIC). The payment provision is private insurance, Medicare, Medicaid, or other resources consistent with Medicaid and social services eligibility and Iowa Code chapter 249A.

151.22(3) *Services not listed.* If a court orders a service not currently listed in subrule 151.22(1), the chief juvenile court officer or approved administrator shall review the order and shall consult with the department. If reimbursement for the service expense is not in conflict with current law or administrative rules and meets the criteria for certification of the court, the chief juvenile court officer or approved administrator shall authorize reimbursement to the provider.

[ARC 2435C, IAB 3/16/16, effective 5/1/16]

These rules are intended to implement Iowa Code section 232.141.

441—151.23 to 151.29 Reserved.

DIVISION III GRADUATED SANCTION SERVICES

PREAMBLE

The graduated sanction services are early intervention and follow-up services to be provided to children adjudicated delinquent and to children who have been referred to juvenile court services for a delinquency violation or who have exhibited behaviors likely to result in a juvenile delinquency referral. The services are directed to enhance personal adjustment to help the children transition into productive adulthood and to prevent or reduce criminal charges, out-of-home placement, and recidivism. The services are provided in the child's home community.

The graduated sanction services are community-based intervention, school-based supervision, and supportive enhancement services. Together this mix of services and the flexibility allowed in tailoring the services to meet specific needs offer a choice of treatment to meet the specific needs of the child.

[ARC 2435C, IAB 3/16/16, effective 5/1/16]

441—151.30(232) Community-based interventions. “Community-based interventions” means individual or group instruction which includes, but is not limited to, supervised educational support, treatment and outreach services to an eligible child who is experiencing social, behavioral, or emotional problems that placed the child at risk of group care or state institutional placement. A program for a child may be funded from multiple sources, but the funding sources may not duplicate or overlap. The components and activities shall be described in the contract. Services offered may provide individualized and intensive interventions to assist a child in establishing positive behavior patterns and to help the child maintain accountability in a community-based setting.

151.30(1) *Service eligibility.* Children shall be eligible for community-based intervention services without regard to individual or family income when they are adjudicated delinquent or are determined by a juvenile court officer to be at risk and to be in need of the service provided by a community-based intervention program. Juvenile court services shall maintain in the child's case record or case file documentation of the child's adjudication or at-risk status as well as the child's need for services.

a. The chief juvenile court officer shall establish written procedures for screening and approving referrals for community-based intervention services and make the procedures available to the district's juvenile court officers.

b. The juvenile court officer shall determine the child to be in need of services as evidenced by one or more of the following situations:

(1) Schools, parents or community organizations, due to complaints of delinquent activities, indicate the need for monitoring and guidance of the child.

(2) A petition has been filed alleging delinquent behavior.

(3) Juvenile court services action has been initiated including, but not limited to, diversion, informal adjustment agreements, adjudication and disposition proceedings.

c. The chief juvenile court officer may approve community-based intervention services for up to six consecutive months at a time, except that service approval shall not extend beyond the current fiscal year unless a contract is in effect to assume the cost for the services provided in the next fiscal year. The officer shall reevaluate the child's eligibility and need for these services in accordance with procedures established by the respective juvenile court services district.

d. Referrals shall not be made or accepted when funds for the program are not available.

e. The child shall not require more extensive treatment than is provided in the community-based intervention program.

151.30(2) Service components.

a. Community-based interventions provide treatment to an eligible child as well as an opportunity for the eligible child to participate in state-funded educational programming. Therapy or counseling and skill development services may be provided through this program to the child's family; components include specific training to develop and enhance:

(1) Personal skills, including anger management, stress reduction, and self-esteem.

(2) Child and parent relationships.

(3) Problem solving.

(4) Accountability and acceptance of responsibility.

(5) Victim empathy and self-advocacy.

(6) Activities of daily living and time management.

(7) Job skills including job-seeking skills as well as training for specific jobs and on-the-job training experiences.

(8) Parenting skills.

b. The contract must specify what is required of the provider.

c. Services may be co-located with school programs. Although the costs of the state-funded educational programming shall not be funded through the graduated sanctions appropriation, programs shall be developed so that there is close coordination between the treatment and the state-funded educational components.

d. Services shall include one or more of the following components:

(1) Skill-building services focusing on social skills, recreation activities, employment readiness, independent living, and other areas related to a child's treatment needs.

(2) Individual, group and family therapy and counseling as determined appropriate by the program director and referral source. Staff that provide individual, group and family therapy shall meet applicable state licensing standards.

(3) Snacks and meals as necessary during the non-state-funded educational portion of the program day.

(4) Supervision and support services, such as transportation to the non-state-funded educational program, family outreach, telephone contact, and electronic monitoring of the eligible child.

(5) Transition service planning upon admission so that timely transition services are available upon discharge, if needed.

(6) Supervision and support services when necessary to help the eligible child transition out of the program.

e. Community support services are directed toward the child's maintaining accountability and may include multiple daily contacts with the child through direct face-to-face contact, telephone or technology.

f. Outreach activities provide guidance and advocacy for the child and may include individualized interventions with the child's family as well as assistance in accessing the following types of resources:

- (1) Referral to community organizations.
- (2) Health services (physical and mental).
- (3) Education.
- (4) Employment.
- (5) Legal.
- (6) Case conferences and services planning.
- (7) Diagnostic assessment services.
- (8) Family competency-building services.

g. Outreach activities may also include recreation and transportation when guidance and advocacy are a part of the service component.

h. Providers of community-based interventions shall submit progress reports on each child receiving services to the assigned juvenile court officer at intervals specified in the contract. The contractor shall complete progress reports not more than one month after services are initiated and within 30 days of the termination of service. Progress reports shall describe the child's school attendance and progress toward desired goals identified by the provider and referral source. Progress reports shall also describe the specific instruction provided to the child and the child's response to the instruction.

i. The juvenile court officer shall file the provider progress report in the child's case file. Providers of community-based intervention services shall prepare an initial treatment plan in consultation with the referral source within 30 days of the child's admission and shall prepare a minimum of quarterly progress reports on each child receiving services.

(1) Additional reports may be prepared when requested by the juvenile judge or the child's juvenile court officer.

(2) All reports shall be submitted to the juvenile court officer responsible for monitoring the child's progress. All reports shall, at a minimum, describe the child's attendance, adjustment, and progress in achieving the desired goals and objectives established in the treatment plan.

151.30(3) Service referral and follow-up. The juvenile court officer shall:

- a. Determine which service provider can best meet the child's needs.
- b. Refer the child to the provider.
- c. Assist in the child's transition to receive the service.
- d. Follow up after the service has been provided.

151.30(4) Monitoring of service delivery. The juvenile court officer shall monitor the delivery of community-based intervention services to children for whom the officer is responsible.

a. The juvenile court officer shall review provider progress reports and maintain contact with the child, the child's family, the provider, and other community agencies to adequately assess the child's progress and need for service.

b. The juvenile court officer shall report problems in service delivery to the chief juvenile court officer.

c. The provider, the child, or the child's representatives may report problems in service delivery to the chief juvenile court officer.

151.30(5) Billable unit and rate setting. Rates for community-based intervention services shall be established through an agreement between the provider and the chief juvenile court officer based on the provider's proposed budget. Rates may vary among providers for various types of community-based intervention services. The billable unit and unit costs shall be specified in the contract.

a. Community-based intervention service shall be billed on the basis of units of instruction provided to eligible children during specified time frames.

b. The community-based intervention instruction may be provided on an individual or group basis. See paragraph 151.35(2) "c" for rate-setting requirements when more than one child is served at a time.

c. The provider may incorporate the expenses for instructional materials into the service unit cost or may identify the expenses for instructional materials in an attachment to the contract to be billed separately from the unit cost.

d. Rescinded IAB 11/9/05, effective 1/1/06.

151.30(6) Provider standards. Providers shall have a contract with juvenile court services and the department for community-based intervention services and agree to abide by all required instructional, reporting, rate-setting, and billing and payment procedures for community-based intervention services. The chief juvenile court officer shall review provider staff qualifications and training activities. Providers of community-based intervention services shall meet all of the following conditions. Providers shall:

a. Be selected and approved by the chief juvenile court officer or designee within each judicial district to provide community-based intervention services.

b. Use staff who, in the opinion of the chief juvenile court officer, have the necessary training and qualifications to provide quality services on the topic about which they will be delivering instruction.

c. Use a curriculum approved by the chief juvenile court officer for community-based interventions.

d. Have the educational and instructional ability, as determined by the chief juvenile court officer, to deliver community-based intervention services to eligible children in the settings most suited to each child's needs.

151.30(7) Outcome measures. Each contract for purchase of community-based intervention services shall contain a section to inform the provider that juvenile court services and the department shall track the outcome of the service provision following each child's discharge from the service received through the contract.

a. Juvenile court services and the department shall collaborate to determine the criteria and data needed to track and record the outcomes.

b. The provider shall report data as requested by juvenile court services.

c. Juvenile court services shall determine whether the child has reoffended within the six-month period following the date of discharge from community-based interventions. Service to a child shall be considered successful if the child has not been referred to juvenile court services for a law violation during the six-month period following discharge from community-based interventions.

d. The data shall be used to develop information to make decisions regarding service provision and contracting.

[ARC 2435C, IAB 3/16/16, effective 5/1/16]

441—151.31(232) School-based supervision. "School-based supervision" means a program that provides for salaried staff, known as juvenile court school liaisons, to be hired by providers. The juvenile court school liaisons provide on-site services at middle and high schools to children experiencing truancy or other behavior problems at school and at home or in the community.

151.31(1) Service eligibility.

a. Children shall be eligible for school-based supervision services without regard to individual or family income when they are adjudicated delinquent or adjudicated a child in need of assistance or are determined by a juvenile court officer or school official to be at risk and in need of school-based supervision services. Documentation of the adjudication or at-risk status as well as the need for services shall be maintained by the juvenile court school liaison in the child's case record or case file.

b. The chief juvenile court officer shall establish written procedures for screening and approving referrals for school-based supervision services. The written procedures for screening and approving referrals shall be made available to the juvenile court school liaisons and to the district's juvenile court officers.

c. Referrals shall not be made or accepted when funds for the program are not available.

151.31(2) Service components.

a. Juvenile court school liaisons assist with behavior and classroom management, conflict resolution, school attendance, and violence prevention. Services provided may include, but are not limited to, dealing with misbehavior and truancy on an immediate basis, providing family support

services such as outreach and education, performing juvenile court intake functions under the supervision of the chief juvenile court officer, and promoting resource development to meet most effectively the needs of at-risk youth.

b. Each school-based supervision program shall have established procedures for communication and for maintaining records on individual children receiving assistance. The procedure shall include methods for the timely communication of critical information between juvenile court school liaisons and juvenile court services, the department, and school officials; assurances that child abuse allegations shall be reported promptly in accordance with applicable Iowa statutes; and systems to safeguard the confidentiality of the child's records.

151.31(3) *Service referral and follow-up.* The juvenile court officer, department staff, or school personnel shall:

- a.* Determine when a service referral should be made to best meet the child's needs.
- b.* Refer the child to the provider.
- c.* Assist in the child's transition to receive the service.
- d.* Follow up after the service has been provided.

151.31(4) *Monitoring of service delivery.*

a. The juvenile court officer and school personnel shall monitor the delivery of school-based supervision services to children for whom the officer is responsible.

b. The juvenile court officer and school personnel shall report problems in service delivery to the chief juvenile court officer.

c. The juvenile court school liaison, the child, or the child's representatives may report problems in service delivery to the chief juvenile court officer.

151.31(5) *Billable unit and rate setting.* The school-based supervision program is used to hire salaried staff, through a contract with a provider, to provide school-based supervision. The cost of the service is the cost of the salary and administrative expenses identified in the contract for which the department is billed, generally monthly or quarterly.

a. The contract shall define the rate and schedule to be used for submitting a claim for salary and related administrative expenses.

b. School-based supervision provides short-term or long-term service to children. The juvenile court school liaison shall maintain a list (roster), by month, of the individual children to whom service is provided. The juvenile court school liaison shall have face-to-face or verbal contact with each child whose name appears on the roster. The list shall include the name of the child and the referral source.

(1) The school shall maintain a copy of the list and the claim. Each claim is validated by the list of children served during each month the school is in session. The list and the claim are subject to audit.

(2) The juvenile court school liaison is not required to list the names of children receiving group services.

(3) The juvenile court school liaison and school are not required to maintain or submit lists of children served for those months covered by a school employee contract for which the salary is prorated when school is not in session and no service is provided. The prorated salary arrangement shall be described in the contract.

c. School-based supervision rates are based on directives in annual legislation for the school-based appropriation as well as budget and rate-setting procedures within each school district. Funds allocated to the department and administered by juvenile court services shall be matched with funds committed from the local school district where the program is established. The chief juvenile court officer shall negotiate the match rate with the school board's authorized designee.

(1) The amount of dollars each chief juvenile court officer may use for school-based supervision is equal to the judicial district's current school-based supervision allocation plus an amount from the court-ordered services allocation. The total amount available from the court-ordered services allocation is equal to 50 percent of the school-based supervision allocation available for state fiscal year 1998 or \$580,000. The state court administrator shall determine the amount from the court-ordered services allocation available to each district each year based on each district's respective portion of the statewide population of children as reported in current census data.

(2) The chief juvenile court officer shall transfer an amount, as necessary and allowable, to the school-based supervision allocation from the court-ordered services allocation so that the school-based supervision share of the program cost of each contract equals the agreed-upon match amount for each contract.

(3) The contract shall specify the maximum percentage of the program cost that shall be paid from the school-based supervision funds as well as the minimum percentage of the program cost that shall be paid by the school district.

151.31(6) *Selecting schools for programs.* The chief juvenile court officer of each judicial district shall be responsible for selecting school-based programs for funding and for managing the judicial district's school-based supervision allocation to ensure that resources are targeted effectively among schools within the district. All applications for funding and subsequent contracts shall contain funding commitments from the local school district for the local school district's share of program costs.

a. The chief juvenile court officer may elect to develop an intergovernmental 28E agreement with the school district, or the school district may request that a contract be developed with an independent provider pursuant to a competitive bid.

b. The funding arrangements shall be described in the contract.

c. Each contract shall contain:

(1) A description of the school district and specific schools in which the supervision program shall be implemented, including a description of why these schools were targeted as needing the program.

(2) A description of the proposed school-based supervision program to be implemented, including the referral process for the child, eligibility determination, service denial, reduction, or termination, and appeal procedures. This description may be included in the contract or may be included as an attachment.

(3) A description of the number of staff to be employed in the program, including the job description, staff qualifications, procedures for training and supervising staff, and methods for monitoring the program. A minimum of a bachelor of arts or a bachelor of science degree in the behavioral sciences or related field is required unless the chief juvenile court officer and the school agree that an associate degree is acceptable.

(4) A description of the record-keeping and statistical reporting procedures to be used by the program.

151.31(7) *Provider progress reports.*

a. School-based supervision programs shall maintain information and statistics that shall include, at a minimum, the service and financial records used to support or substantiate claims for reimbursement and, for the individual children referred for service, the total number of children served as well as educational and behavioral outcomes including attendance, grades, and student conduct.

b. Each school with a school-based supervision program shall prepare a progress report summarizing information about the program and shall submit the report to the chief juvenile court officer. The format and time for submitting these reports shall be specified in the contract.

151.31(8) *Outcome measures.* Each contract shall contain a section to inform the provider that juvenile court services and the department shall track the outcome of the service provision for each child who is served through the contract and meets predetermined contact criteria.

a. Juvenile court services and the department shall collaborate to determine preservice and postservice measures needed to track and record outcomes such as attendance, truancy, tardiness, suspensions, law violations, and grade-point average.

b. The juvenile court school liaison shall report data as requested by juvenile court services.

c. Data collected on the children shall be used to establish or modify a baseline for the provider and for the service. The data shall be used to develop information to make decisions regarding service provision and contracting.

441—151.32(232) Supportive enhancements. “Supportive enhancements” means a category of services, real goods or incentives matched to the risk needs of a child and which supports a child in a way to reduce or eliminate antisocial behavior. All services in this category are predicated on a planning and individualized goal development process which elicits input from the juvenile court

officer, service providers, and the child and the family. Services are to build constructive relationships and support networks around the eligible child, within the child's community or during transition, and with the child's family. Supportive enhancements are community-based, culturally relevant, individualized, strength-based, and family-centered. Supportive enhancements may also be called supportive enhancement services. Supportive enhancements are individualized to address the child's comprehensive and multiple life domains across home, school, and community, including:

- Living environment.
- Accountability.
- Basic needs.
- Safety.
- Social needs.
- Educational needs.
- Cultural needs.

151.32(1) *Service eligibility.* The eligible child shall be qualified for supportive enhancement services without regard to individual or family income when the child is adjudicated delinquent or is determined by a juvenile court officer to be at risk and to be in need of service provided by supportive enhancements. Juvenile court services shall maintain documentation in the child's case file of the adjudication or at-risk status as well as of the need for services.

a. The chief juvenile court officer shall establish written procedures for screening and approving referrals for supportive enhancement services and make the procedures available to the district's juvenile court officers.

b. The juvenile court officer shall determine the child is in need of services as evidenced by one of the following situations which is tied into the individualized case plan:

- (1) Schools, parents or community organizations, due to complaints of delinquent activities, indicate a need for monitoring and guidance of the child.
- (2) A petition has been filed alleging delinquent behavior.
- (3) Juvenile court services action has been initiated including, but not limited to, informal adjustment agreements, adjudication and dispositional proceedings.

c. Juvenile court services shall maintain in the child's case record or case file documentation of the child's adjudication or at-risk status as well as the child's need for services.

d. The chief juvenile court officer may approve supportive enhancement services for up to six consecutive months at a time, except that service approval shall not extend beyond the current fiscal year unless a contract is in effect to assume the cost for the services provided in the next fiscal year. The officer shall reauthorize the child's eligibility and need for these services in accordance with the procedures established by the respective juvenile court services district.

e. Referrals shall not be made or accepted when funds for the program are not available.

151.32(2) *Service components.* Supportive enhancement services are to complement other services or interventions for a child served by the juvenile court services or other provider. These supports allow the juvenile court services to intervene immediately with a support or incentive that is expected to reduce misbehavior or truancy and will lead to improved outcomes. Alternative funds or services shall be utilized prior to supportive enhancements when available. Supportive enhancements may include, but are not limited to:

- a.* Education-related services.
- b.* Restitution.
- c.* Crisis intervention.
- d.* Transportation.
- e.* Clothing and grooming supplies.
- f.* Enrollment for prosocial activities.
- g.* Other expenses as approved by the chief juvenile court officer.

151.32(3) *Service referral and follow-up.* The juvenile court officer shall:

- a.* Determine which service and service provider can best meet the child's needs.
- b.* Assist in the child's transition to receive the service.

c. Follow up after the service has been provided with the eligible child, the family, and the provider.

151.32(4) *Monitoring of service delivery.* The juvenile court officer shall monitor the delivery of supportive enhancements to the eligible child for whom the officer is responsible.

a. The juvenile court officer shall report problems in service delivery to the chief juvenile court officer.

b. The provider, the child, or the child's representatives may report problems in service delivery to the chief juvenile court officer.

151.32(5) *Billable unit and rate setting.* Rates for supportive enhancements shall be established through an agreement between the provider and the chief juvenile court officer, based on actual expenses and allowed administration costs. Rates may vary.

151.32(6) *Provider standards.* Providers shall have a contract with juvenile court services and the department for supportive enhancements and agree to abide by all required instructional reporting, rate-setting, and billing and payment procedures.

151.32(7) *Outcome measures.* Each contract for purchase of supportive enhancements shall contain a section to inform the provider that juvenile court services and the department shall track the outcome of the service provision following each child's discharge from the service received through the contract. The contract will detail expected outcomes of the service.

a. Juvenile court services, the department, and the provider shall collaborate to determine the criteria and data needed to track and record the outcomes.

b. The provider shall report data as requested by juvenile court services.

c. Juvenile court services shall determine whether the child has reoffended within the six-month period following the date of discharge from supportive enhancements.

d. Service to a child shall be considered successful if the child has not been referred to juvenile court services for a law violation or removed from the child's home during the six-month period following discharge.

e. The data shall be used to develop information to make decisions regarding service provision and contracting.

[ARC 2435C, IAB 3/16/16, effective 5/1/16]

441—151.33(232) Tracking, monitoring, and outreach. Rescinded ARC 2435C, IAB 3/16/16, effective 5/1/16.

441—151.34(232) Administration of graduated sanction services. The chief juvenile court officer shall purchase graduated sanction services for eligible children pursuant to a contract with juvenile court services and the department.

151.34(1) *Requirements.* Each chief juvenile court officer shall:

a. Establish minimum qualifications for providers of graduated sanction services;

b. Establish criteria and procedures for determining when and where to develop contracts with providers to best meet the service needs of the children in the judicial district;

c. Require providers to comply with applicable professional standards; and

d. Ensure that use of graduated sanction funds for education and performance for juvenile court staff can be shown to benefit the eligible child.

151.34(2) *Referrals.* Each chief juvenile court officer shall develop procedures for eligible children to receive graduated sanction services.

a. Children who are adjudicated delinquent or who are at risk shall apply or be referred for graduated sanction services through the juvenile court services office.

b. School officials may refer adjudicated or at-risk children for school-based supervision services in schools where school-based supervision programs are established.

151.34(3) *Adverse actions.* Graduated sanction services shall be reduced or terminated when:

a. The court orders discontinuation of services; or

b. The juvenile court officer determines that there is no longer a need for service; or

c. The juvenile court officer determines that maximum benefit of service provision has been achieved; or

d. The funds allocated or appropriated for these services are exhausted.
[ARC 2435C, IAB 3/16/16, effective 5/1/16]

441—151.35(232) Contract development for graduated sanction services. The chief juvenile court officer shall have the responsibility to purchase graduated sanction services (community-based interventions; school-based supervision; or supportive enhancement services).

151.35(1) Contracting process.

a. The chief juvenile court officer for each judicial district shall develop the process for contracting for graduated sanction services. The process shall include:

- (1) The rationale for selecting which services to provide;
- (2) The provider selection process, including bid solicitations;
- (3) Vendor evaluation criteria; and
- (4) A procedure for resolving appeals.

b. The chief juvenile court officer or designee shall develop selection criteria for choosing providers to ensure that resources are targeted effectively within the district. Multiple providers may be selected to address the needs within the district.

c. The chief juvenile court officer shall develop a contract with each provider selected through the process.

(1) The chief juvenile court officer or designee shall prepare Form 470-0022, Pre-Contract Questionnaire, for each new contract.

(2) The chief juvenile court officer, the provider, and the department shall sign the contract.

(3) The chief juvenile court officer or designee is responsible for distributing a copy of the signed contract or amendment to the provider.

d. The chief juvenile court officer shall have the authority to resolve provider appeals in accordance with procedures approved by the department.

e. Contract amendments shall be prepared whenever there is a change in the amount of contracted dollars, contract duration, program description, or any other terms of the contract.

(1) Any party to the contract may request an amendment to the contract. The provider may request a contract amendment through the chief juvenile court officer.

(2) The chief juvenile court officer, the provider, and the department shall sign a contract amendment.

(3) The chief juvenile court officer or designee shall prepare Form 470-0022, Pre-Contract Questionnaire, for each contract amendment.

f. The chief juvenile court officer may submit a claim for payment of juvenile court services' costs of printing, copying, distributing and advertising associated with the contracting process. The claim shall be submitted on Form GAX, General Accounting Expenditure. The cost shall be charged first to the administrative set-aside funds and second to the program fund, as funds are available.

151.35(2) Contract content. Contracts for purchasing graduated sanction services shall be developed using contract forms approved as to legal form by the assistant attorney general assigned to work with juvenile court services contracts. Contracts with providers shall incorporate all applicable requirements in Iowa Code section 8.47 as well as the administrative and program requirements of this chapter.

a. The contract shall:

- (1) Note the unit cost or payment rate;
- (2) State the interval for which the cost will be billed;
- (3) Describe the process the provider shall follow to complete and submit claims for payment; and
- (4) Specify any approved charges for curriculum materials or other expenses that are involved in the delivery of services but not included in the unit cost or payment rate.

b. Contracts with providers of community-based interventions or supportive enhancements shall establish and define the unit of service and the cost of the unit of service to be provided and billed per child. The contract shall specify the payment amount for the unit of service and may specify a maximum

number of units but shall not ensure a provider reimbursement for a specific rate of utilization. Payment shall be made only for units of service provided to and billed for specific children.

c. Contracts with providers of community-based interventions or supportive enhancements may establish individual or group rates. The contract shall establish a group rate when the service is provided to more than one child at a time. A minimum and a maximum number of participants shall be established when a group rate is set.

(1) The group rate may be a set amount to be charged for each child who attends the group. The provider will receive payment for each child served.

(2) The group rate may be a set amount to be charged for the group. The provider will receive the same payment amount each time the provider serves the group. The provider must identify all attendees of each group for which payment is claimed.

d. Contracts with providers of community-based interventions or supportive enhancements may establish per diem rates when the intensity of service provision per child is variable but the total cost of the provision of the service is known. The range of coverage of the intensity of service provision shall be described in the contract.

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481—67.1(231B,231C,231D) Definitions. The following definitions apply to this chapter and to 481—Chapters 68, 69, and 70.

“Activities of daily living” means the following self-care tasks: bathing, dressing, grooming, eating, transferring, toileting, and ambulation.

“Ambulatory” or *“ambulation”* means physically and cognitively able to walk without aid of another person.

“Applicable requirements” means Iowa Code chapters 135C, 231B, 231C, 231D, 235B, 235E, and 562A, this chapter, and 481—Chapters 68, 69, and 70, as applicable, and includes any other applicable administrative rules and provisions of the Iowa Code.

“Assignment” means the distribution of work for which each staff member, regardless of certification or licensure status, is responsible during a given work period and includes a nurse directing an individual to do something the individual is already authorized to do.

“Assistance” means aid to a tenant who self-directs or participates in a task or activity or who retains the mental or physical ability, or both, to participate in a task or activity. Cueing of the tenant regarding a particular task or activity shall be construed to mean the tenant has participated in the task or activity.

“Blueprint” means copies of all completed drawings, schedules, and specifications that have been certified, sealed, and signed by an Iowa-licensed architect or Iowa-licensed engineer of record. The department may allow electronic transfer of blueprints pursuant to policy.

“Certified staff” means certified nursing assistants (CNAs) and certified medication assistants (CMAs) employed by the program.

“Dementia” means an illness characterized by multiple cognitive deficits which represent a decline from previous levels of functioning and includes memory impairment and one or more of the following cognitive disturbances: aphasia, apraxia, agnosia, and disturbance in executive functioning.

“Department” means the department of inspections and appeals.

“Director” means the director of the department of inspections and appeals.

“Direct supervision” means the provision of guidance and oversight of a delegated nursing task through the physical presence of the licensed nurse to observe and direct certified and noncertified staff.

“Elope” means that a tenant who has impaired decision-making ability leaves the program without the knowledge or authorization of staff.

“Global Deterioration Scale” or *“GDS”* means the seven-stage scale for assessment of primary degenerative dementia developed by Dr. Barry Reisberg.

“Health care professional” means a physician, physician assistant, registered nurse or advanced registered nurse practitioner licensed in Iowa by the respective licensing board.

“Health-related care” means services provided by a registered nurse or a licensed practical nurse, on a part-time or intermittent basis, and services provided by other licensed health care professionals, on a part-time or intermittent basis. “Health-related care” includes nurse-delegated assistance.

“Human service professional” means an individual with a bachelor’s degree in a human service field including, but not limited to: human services, gerontology, social work, sociology, psychology, or family science. Two years of experience in a human service field may be substituted for up to two years of the required education. For example, an individual with an associate’s degree in a human service field and two years of experience in a human service field is a human service professional.

“Impaired decision-making ability” means a lack of capacity to make safe and prudent decisions regarding one’s own routine safety as determined by the program manager or nurse or means having a GDS score of five or above.

“Independent reviewer” means an attorney licensed in the state of Iowa who is not currently and has not been employed by the department in the past eight years, or has not appeared in front of the department on behalf of a health care facility in the past eight years. Preference shall be given to an attorney with background knowledge, experience or training in long-term care.

“Indirect supervision” means the provision of guidance and oversight of a delegated nursing task through means other than direct supervision, including written and verbal communication.

“Instrumental activities of daily living” means those activities that reflect the tenant’s ability to perform household and other tasks necessary to meet the tenant’s needs within the community, which may include but are not limited to shopping, housekeeping, chores, and traveling within the community.

“Medication setup” means assistance with various steps of medication administration to support a tenant’s autonomy, which may include but is not limited to routine prompting, cueing and reminding, opening containers or packaging at the direction of the tenant, reading instructions or other label information, or transferring medications from the original containers into suitable medication dispensing containers, reminder containers, or medication cups.

“Modification” means any addition to or change in physical dimensions or structure, except as incidental to the customary maintenance of the physical structure of the program’s facility.

“Monitoring” means an on-site evaluation of a program, a complaint investigation, or a program-reported incident investigation performed by the department to determine compliance with applicable requirements. A monitor who performs a monitoring for the department shall be a registered nurse, human service professional, or another person with program-related expertise.

“Noncertified staff” means unlicensed and uncertified personnel employed by the program.

“Nurse delegation” means the action of a registered nurse, advanced registered nurse practitioner, or licensed practical nurse to direct competent certified and noncertified staff to perform selected nursing tasks in selected situations. The decision of a nurse to delegate is based on the delegation process, including assessment, planning, implementation, supervision, and evaluation of the tenant, nursing tasks, personnel, and the situation. The nurse, as a licensed professional, retains accountability for the delegation process and the decision to delegate. Licensed practical nurses may delegate within the scope of their license with the supervision of a registered nurse.

“Occupancy agreement” or *“contractual agreement”* means a written contract entered into between a program and a tenant that clearly describes the rights and responsibilities of the program and the tenant and other information required by applicable requirements. An occupancy agreement may include a separate signed lease and signed service agreement.

“Part-time or intermittent care” means licensed nursing services and professional therapies that are provided in combination with nurse-delegated assistance with medications or activities of daily living and do not exceed 28 hours per week or, for adult day services, 4 hours per day.

“Personal care” means assistance with the essential activities of daily living which may include but are not limited to transferring, bathing, personal hygiene, dressing, and grooming that are essential to the health and welfare of a tenant.

“Physician extender” means nurse practitioners, clinical nurse specialists, and physician assistants.

“Preponderance of the evidence” means that the evidence, considered and compared with the evidence opposed to it, produces the belief in a reasonable mind that the allegations are more likely true than not true.

“Program” means one or more of the following, as applicable: an elder group home as defined in Iowa Code section 231B.1 and 481—Chapter 68, an assisted living program as defined in Iowa Code section 231C.1 and 481—Chapter 69, or adult day services as defined in Iowa Code section 231D.1 and 481—Chapter 70.

“Program staff” means all employees of the program, regardless of certification or licensure status.

“Qualified professional” means a facility plant engineer familiar with the type of program being provided, or a licensed plumbing, heating, cooling, or electrical contractor who furnishes regular service to such equipment.

“Recognized accrediting entity” means a nationally recognized accrediting entity that the department recognizes as having specific program standards equivalent to the program standards established by the department.

“Regulatory insufficiency” means a violation of an applicable requirement.

“Remodeling” means a modification of any part of an existing building, an addition of a new wing or floor to an existing building, or a conversion of an existing building.

“Restraints” means any chemical or manual method which restricts freedom of movement or normal access to one’s body or any physical or mechanical device, material or equipment which is attached or adjacent to the tenant’s body that the tenant cannot remove easily and which restricts freedom of movement or normal access to one’s body.

“Routine” means more often than not or on a regular customary basis.

“Self-administration” means a tenant’s taking personal responsibility for all phases of medication except for any component assigned to the program under medication setup, and may include the tenant’s use of an automatic pill dispenser.

“Service plan” means the document that defines all services necessary to meet the needs and preferences of a tenant, whether or not the services are provided by the program or other service providers.

“Significant change” means a major decline or improvement in the tenant’s status which does not normally resolve itself without further interventions by staff or by implementing standard disease-related clinical interventions that have an impact on the tenant’s mental, physical, or functional health status.

“Substantial compliance” means a level of compliance with applicable requirements such that any identified regulatory insufficiency poses no greater risk to tenant health or safety than the potential for causing minimal harm.

“Tenant” means an individual who receives services through a program. In the context of adult day services, “tenant” means a participant as defined in 481—Chapter 70.

“Tenant advocate” means the office of long-term care resident’s advocate established in Iowa Code section 231.42.

“Tenant’s legal representative” means a person appointed by the court to act on behalf of a tenant or a person acting pursuant to a power of attorney. In the context of adult day services, “tenant’s legal representative” means a participant’s legal representative as defined in 481—Chapter 70.

“Waiver” means action taken by the department that suspends in whole or in part the requirements or provisions of a rule.

[ARC 8174B, IAB 9/23/09, effective 1/1/10; ARC 0961C, IAB 8/21/13, effective 9/25/13; ARC 1055C, IAB 10/2/13, effective 1/1/14; ARC 1994C, IAB 5/27/15, effective 7/1/15; ARC 2463C, IAB 3/16/16, effective 4/20/16]

481—67.2(231B,231C,231D) Program policies and procedures, including those for incident reports. A program’s policies and procedures must meet the minimum standards set by applicable requirements. The program shall follow the policies and procedures established by a program. All programs shall have policies and procedures related to the reporting of incidents including allegations of dependent adult abuse.

67.2(1) The program’s policies and procedures on incident reports, at a minimum, shall include the following:

- a. The program shall have available incident report forms for use by program staff.
- b. An incident report shall be in detail and shall be provided on an incident report form.
- c. The person in charge at the time of the incident shall prepare and sign the report.
- d. The incident report shall include statements from individuals, if any, who witnessed the incident.
- e. All accidents or unusual occurrences within the program’s building or on the premises that affect tenants shall be reported as incidents.
- f. A copy of the completed incident report shall be kept on file on the program’s premises for a minimum of three years.

67.2(2) The program’s policies and procedures on allegations of dependent adult abuse shall be consistent with Iowa Code chapter 235E and rules adopted pursuant to that chapter and, at a minimum, shall include:

- a. Reporting requirements for staff and employees, and
- b. Requirements that the victim and alleged abuser be separated.

[ARC 8174B, IAB 9/23/09, effective 1/1/10]

481—67.3(231B,231C,231D) Tenant rights. All tenants have the following rights:

67.3(1) To be treated with consideration, respect, and full recognition of personal dignity and autonomy.

67.3(2) To receive care, treatment and services which are adequate and appropriate.

67.3(3) To receive respect and privacy in the tenant's medical care program. Personal and medical records shall be confidential, and the written consent of the tenant shall be obtained for the records' release to any individual, including family members, except as needed in case of the tenant's transfer to a health care facility or as required by law or a third-party payment contract.

67.3(4) To be free from mental and physical abuse.

67.3(5) To receive from the manager and staff of the program a reasonable response to all requests.

67.3(6) To associate and communicate privately and without restriction with persons and groups of the tenant's choice, including the tenant advocate, on the tenant's initiative or on the initiative of the persons or groups at any reasonable hour.

67.3(7) To manage the tenant's own financial affairs unless a tenant's legal representative has been appointed for the purpose of managing the tenant's financial affairs.

67.3(8) To present grievances and recommend changes in program policies and services, personally or through other persons or in combination with others, to the program's staff or person in charge without fear of reprisal, restraint, interference, coercion, or discrimination.

67.3(9) To be free from restraints.

[ARC 8174B, IAB 9/23/09, effective 1/1/10; ARC 2463C, IAB 3/16/16, effective 4/20/16]

481—67.4(231B,231C,231D) Program notification to the department. The director or the director's designee shall be notified within 24 hours, or the next business day, by the most expeditious means available:

67.4(1) Of any accident causing major injury. For the purposes of this rule, "major injury" shall also mean a substantial injury.

a. "Major injury" shall be defined as any injury which:

- (1) Results in death; or
- (2) Requires admission to a higher level of care for treatment, other than for observation; or
- (3) Requires consultation with the attending physician, designee of the physician, or physician extender who determines, in writing on a form designated by the department, that an injury is a "major injury" based upon the circumstances of the accident, the previous functional ability of the tenant, and the tenant's prognosis.

b. The following are not reportable accidents:

- (1) An ambulatory tenant who falls when neither the program nor its employees have culpability related to the fall, even if the tenant sustains a major injury; or
- (2) Spontaneous fractures; or
- (3) Hairline fractures.

67.4(2) When damage to the program is caused by a natural or other disaster.

67.4(3) When there is an act that causes major injury to a tenant or when a program has knowledge of a pattern of acts committed by the same tenant on another tenant that results in any physical injury. For the purposes of this subrule, "pattern" means two or more times within a 30-day period.

67.4(4) When a tenant elopes from a program.

67.4(5) When a tenant attempts suicide, regardless of injury.

67.4(6) When a fire occurs in a program and the fire requires the notification of emergency services, requires full or partial evacuation of the program, or causes physical injury to a tenant.

67.4(7) When a defect or failure occurs in the fire sprinkler or fire alarm system for more than 4 hours in a 24-hour period. (This reporting requirement is in addition to the requirement to notify the state fire marshal.)

NOTE: Additional reporting requirements are created by other rules and statutes, including but not limited to Iowa Code chapters 235B and 235E, which require reporting of dependent adult abuse.

[ARC 8174B, IAB 9/23/09, effective 1/1/10]

481—67.5(231B,231C,231D) Medications. Each program shall follow its own written medication policy, which shall include the following:

67.5(1) The program shall not prohibit a tenant from self-administering medications.

67.5(2) A tenant shall self-administer medications unless:

a. The tenant or the tenant's legal representative delegates in the occupancy agreement or signed service plan any portion of medication setup to the program.

b. The tenant delegates medication setup to someone other than the program.

c. The program assumes partial control of medication setup at the direction of the tenant. The medication plan shall not be implemented by the program unless the program's registered nurse deems it appropriate under applicable requirements, including those in Iowa Code section 231C.16A and subrule 67.9(4). The program's registered nurse must agree to the medication plan.

67.5(3) A tenant shall keep medications in the tenant's possession unless the tenant or the tenant's legal representative, if applicable, delegates in the occupancy agreement or signed service plan partial or complete control of medications to the program. The service plan shall include the tenant's choice related to storage.

67.5(4) When a tenant has delegated medication administration to the program, the program shall maintain a list of the tenant's medications. If the tenant self-administers medications, the tenant may choose to maintain a list of medications in the tenant's apartment or to disclose a current list of medications to the program for the purpose of emergency response. If the tenant discloses a medication list to the program in case of an emergency, the tenant remains responsible for the accuracy of the list.

67.5(5) When medication setup is delegated to the program by the tenant, staff via nurse delegation may transfer medications from the original prescription containers or unit dosing into medication reminder boxes or medication cups.

67.5(6) When medications are administered traditionally by the program:

a. The administration of medications shall be provided by a registered nurse, licensed practical nurse or advanced registered nurse practitioner registered in Iowa or by certified and noncertified staff in accordance with subrule 67.9(4) or a physician assistant (PA) in accordance with 645—Chapter 327. Injectable medications shall be administered as permitted by Iowa law by a registered nurse, licensed practical nurse, advanced registered nurse practitioner, physician, pharmacist, or physician assistant (PA).

b. Medications shall be kept in a locked place or container that is not accessible to persons other than employees responsible for the administration or storage of such medications.

c. The program shall maintain a list of each tenant's medications and document the medications administered.

d. Medications shall be administered as prescribed by the tenant's physician, advanced registered nurse practitioner or physician assistant.

67.5(7) Narcotics protocol shall be determined by the program's registered nurse.

[ARC 8174B, IAB 9/23/09, effective 1/1/10; ARC 0961C, IAB 8/21/13, effective 9/25/13; ARC 1050C, IAB 10/2/13, effective 11/6/13; ARC 2463C, IAB 3/16/16, effective 4/20/16]

481—67.6(231B,231C,231D) Another business or activity located in a program.

67.6(1) A business or activity serving persons other than tenants of a program is allowed in a designated part of the physical structure in which the program is located if the other business or activity meets the requirements of applicable state and federal codes, administrative rules, and federal regulations.

67.6(2) A business or activity conducted in the designated part of the physical structure in which the program is located shall not interfere with the use of the program by tenants or with services provided to tenants or disturb tenants.

67.6(3) A business or activity conducted in the designated part of the physical structure in which the program is located shall not reduce access, space, services, or staff available to tenants or necessary to meet the needs of tenants.

[ARC 8174B, IAB 9/23/09, effective 1/1/10]

481—67.7(231B,231C,231D) Waiver of criteria for retention of a tenant in the program.

67.7(1) *Time-limited waiver.* Upon receipt of a program's request for waiver of the criteria for retention of a tenant, the department may grant a waiver of the criteria under applicable requirements for a time-limited basis. Absent extenuating circumstances, a waiver of the criteria for retention of a tenant is limited to a period of six months or less.

67.7(2) *Waiver petition procedures.* The following procedures shall be used to request and to receive approval of a waiver from criteria for the retention of a tenant:

a. A program shall submit the waiver request on a form and in a manner designated by the department as soon as it becomes apparent that a tenant exceeds retention criteria pursuant to an evaluation by a health care or human service professional.

b. The department shall respond in writing to a waiver request within 15 working days of receipt of all required documentation. In consultation with the program, the department may take an additional 15 working days to report its determination regarding the waiver request.

c. The program shall provide to the department within 5 working days written notification of any changes in the condition of the tenant as described in the approved waiver request.

67.7(3) *Factors for consideration for waiver of criteria for retention of a tenant.* In addition to the criteria established in Iowa Code subsection 17A.9A(2), the following factors may be demonstrative in determining whether the criteria for issuance of a waiver have been met.

a. It is the informed choice of the tenant or the tenant's legal representative, if applicable, to remain in the program;

b. The program is able to provide the staff necessary to meet the tenant's service needs in addition to the service needs of the other tenants;

c. The department shall only issue a waiver if the waiver will not jeopardize the health, safety, security or welfare of the tenant, program staff, or other tenants; and

d. The tenant has been diagnosed with a terminal illness and has been admitted to hospice, and the tenant exceeds the criteria for retention and admission for a temporary period of less than six months. A terminal diagnosis means the tenant is within six months of the end of life.

67.7(4) *Conditional waiver.* A conditional waiver may be granted contingent upon the department's receipt of additional information or performance of monitoring.

a. If a waiver has been in effect for six months, a monitoring shall be conducted to determine whether the tenant meets the criteria to continue on a waiver.

b. The department may seek additional information during the period to determine if a waiver should be granted.

67.7(5) *Appeals.* The denial of a waiver request may be appealed by the program pursuant to Iowa Code chapter 17A.

[ARC 8174B, IAB 9/23/09, effective 1/1/10; ARC 2463C, IAB 3/16/16, effective 4/20/16]

481—67.8(231B,231C,231D) All other waiver requests. Waiver requests relating to topics other than retention of a tenant in a program shall be filed in accordance with 481—Chapter 6.

[ARC 8174B, IAB 9/23/09, effective 1/1/10]

481—67.9(231B,231C,231D) Staffing.

67.9(1) *Number of staff.* A sufficient number of trained staff shall be available at all times to fully meet tenants' identified needs.

67.9(2) *Emergency procedures.* All program staff shall be able to implement the accident, fire safety, and emergency procedures.

67.9(3) *Training documentation.* The program shall have training records and staffing schedules on file and shall maintain documentation of training received by program staff, including training of certified and noncertified staff on nurse-delegated procedures.

67.9(4) *Nurse delegation procedures.* The program's registered nurse shall ensure certified and noncertified staff are competent to meet the individual needs of tenants. Nurse delegation shall, at a minimum, include the following:

a. The program's newly hired registered nurse shall within 60 days of beginning employment as the program's registered nurse document a review to ensure that staff are sufficiently trained and competent in all tasks that are assigned or delegated.

b. Within 30 days of beginning employment, all program staff shall receive training by the program's registered nurse(s).

c. Training for noncertified staff shall include, at a minimum, the provision of activities of daily living and instrumental activities of daily living.

d. Certified and noncertified staff shall receive training regarding service plan tasks (e.g., wound care, pain management, rehabilitation needs and hospice care) in accordance with medical or nursing directives and the acuity of the tenants' health, cognitive or functional status.

e. The program's registered nurse(s) shall provide direct or indirect supervision of all certified and noncertified staff as necessary in the professional judgment of the program's registered nurse and in accordance with the needs of the tenants and certified and noncertified staff.

f. Services shall be provided to tenants in accordance with the training provided.

g. The program shall have in place a system by which certified or noncertified staff communicate in writing occurrences that differ from the tenant's normal health, functional and cognitive status. The program's registered nurse or designee shall train certified and noncertified staff on reporting to the program's registered nurse or designee and documenting occurrences that differ from the tenant's normal health, functional and cognitive status. The written communication required by this paragraph shall be retained by the program for a period of not less than three years, and shall be accessible to the department upon request.

h. In the absence of the program's registered nurse due to vacation or other temporary circumstances, the nurse assuming the duties of the program's registered nurse shall have access to staff training in relation to tenant needs.

67.9(5) *Prohibited services.* A program staff member shall not be designated as attorney-in-fact, guardian, conservator, or representative payee for a tenant unless the program staff member is related to the tenant by blood, marriage, or adoption.

67.9(6) *Dependent adult abuse training.* Program staff shall receive training relating to the identification and reporting of dependent adult abuse as required by Iowa Code section 235B.16.

[ARC 8174B, IAB 9/23/09, effective 1/1/10; ARC 0961C, IAB 8/21/13, effective 9/25/13; ARC 0963C, IAB 8/21/13, effective 9/25/13; ARC 2463C, IAB 3/16/16, effective 4/20/16]

481—67.10(17A,231B,231C,231D) Monitoring.

67.10(1) *Frequency of monitoring.* The department shall monitor a certified program at least once during the program's certification period.

67.10(2) *Accessibility of records and program areas.* All records and areas of the program deemed necessary to determine compliance with the applicable requirements shall be accessible to the department for purposes of monitoring.

67.10(3) *Standard for determining whether a regulatory insufficiency exists.* The department shall use a preponderance-of-the-evidence standard when determining whether a regulatory insufficiency exists. A preponderance-of-the-evidence standard does not require that the monitor shall have personally witnessed the alleged violation.

[ARC 8174B, IAB 9/23/09, effective 1/1/10; ARC 1055C, IAB 10/2/13, effective 1/1/14]

481—67.11(231B,231C,231D) Complaint and program-reported incident report investigation procedure.

67.11(1) *Complaints.* The process for filing a complaint is as follows:

a. Any person with concerns regarding the operation or service delivery of a program may file a complaint with the Department of Inspections and Appeals, Complaints Unit, Lucas State Office Building, Third Floor, 321 E. 12th Street, Des Moines, Iowa 50319-0083; by use of the complaint hotline, 1-877-686-0027; by facsimile sent to (515)281-7106; or through the Web site address: https://dia-hfd.iowa.gov/DIA_HFD/Home.do.

b. When the nature of the complaint is outside the department's authority, the department shall forward the complaint or refer the complainant, if known, to the appropriate investigatory entity.

c. The complainant shall include as much of the following information as possible in the complaint: the complainant's name, address and telephone number; the complainant's relationship to the program or tenant; and the reason for the complaint. The complainant's name shall be confidential information and shall not be released by the department. The department shall act on anonymous complaints unless the department determines that the complaint is intended to harass the program. If the department, upon preliminary review, determines that the complaint is intended as harassment or is without reasonable basis, the department may dismiss the complaint.

67.11(2) *Program-reported incident reports.* When the program is required pursuant to applicable requirements to report an incident, the program shall make the report to the department via:

a. The Web-based reporting tool accessible from the following Internet site, https://dia-hfd.iowa.gov/DIA_HFD/Home.do, under the "Complaints" tab;

b. Mail by sending the complaint to the Department of Inspections and Appeals, Complaints Unit, Lucas State Office Building, Third Floor, 321 E. 12th Street, Des Moines, Iowa 50319-0083;

c. The complaint hotline, 1-877-686-0027; or

d. Facsimile sent to (515)281-7106.

67.11(3) *Time frames for investigation of complaints or program-reported incident reports.* Upon receipt of a complaint or program-reported incident report made in accordance with this rule, the department shall conduct a preliminary review of the complaint or report to determine if a potential regulatory insufficiency has occurred. If a potential regulatory insufficiency exists, the department shall institute a monitoring of the program within 20 working days unless there is the possibility of immediate danger, in which case the department shall institute a monitoring of the program within 2 working days of receipt of the complaint or incident report.

67.11(4) *Standard for determining whether a complaint is substantiated.* The department shall apply a preponderance-of-the-evidence standard in determining whether or not a complaint or program-reported incident report is substantiated.

67.11(5) *Notification of program and complainant.* The department shall notify the program and, if known, the complainant of the final report regarding the complaint investigation.

67.11(6) *Notification of accrediting entity.* In addition, for any credible report of alleged improper or inappropriate conduct or conditions within an accredited program, the department shall notify the accrediting entity by the most expeditious means possible of any actions taken by the department with respect to certification enforcement.

67.11(7) *Notification of complainant when complaint not investigated.* The department shall notify the complainant, if known, if the department does not investigate a complaint. The reasons for not investigating the complaint shall be included in the notification.

[ARC 8174B, IAB 9/23/09, effective 1/1/10; ARC 1055C, IAB 10/2/13, effective 1/1/14]

481—67.12(17A,231B,231D) Adult day services and elder group homes—preliminary report, plan of correction and request for reconsideration. Rescinded ARC 1701C, IAB 10/29/14, effective 1/1/15.

481—67.13(17A,231B,231C,231D,85GA,HF2365) Exit interview, final report, plan of correction.

67.13(1) *Exit interview.* The department shall provide an exit interview in person or by telephone at the conclusion of a monitoring, during which the department shall inform the program's representative of all issues and areas of concern related to insufficient practices. A second exit interview shall be provided if the department identifies additional issues or areas of concern. The program shall have 2 working days from the date of the exit interview to submit additional or rebuttal information to the department.

67.13(2) *Final report.* The department shall issue the final report of a monitoring within 10 working days after completion of the on-site monitoring or the receipt by the department of additional or rebuttal information, by personal service, electronically or by certified mail. The department shall issue a final report regarding a monitoring whether or not any regulatory insufficiency is found.

67.13(3) *Plan of correction.* Within 10 working days following receipt of the final report, the program shall submit a plan of correction to the department.

a. Contents of plan. The plan of correction shall include:

- (1) Elements detailing how the program will correct each regulatory insufficiency;
- (2) The date by which the regulatory insufficiency will be corrected;
- (3) What measures will be taken to ensure the problem does not recur;
- (4) How the program plans to monitor performance to ensure compliance; and
- (5) Any other required information.

The date by which the regulatory insufficiency will be corrected shall not exceed 30 days from receipt of the final report pursuant to subrule 67.13(2) without approval of the department.

b. Review of plan. The department shall review the plan of correction within 10 working days. The department may request additional information or suggest revisions to the plan.

67.13(4) *Monitoring revisit.* The department may conduct a monitoring revisit to ensure that the plan of correction has been implemented and the regulatory insufficiency has been corrected. The department may issue a regulatory insufficiency for failure to implement the plan of correction. A monitoring revisit by the department shall review the program prospectively from the date of the plan of correction to determine compliance.

[ARC 8174B, IAB 9/23/09, effective 1/1/10; ARC 1055C, IAB 10/2/13, effective 1/1/14; ARC 1701C, IAB 10/29/14, effective 1/1/15]

481—67.14(17A,231B,231C,231D,85GA,HF2365) Response to final report. Within 20 working days after the issuance of the final report and assessment of civil penalty, if any, the program shall respond in the following manner.

67.14(1) *If not contesting final report.* If the program does not desire to seek an informal conference or contest the final report and civil penalty, if assessed, the program shall remit to the department of inspections and appeals the amount of the civil penalty, if assessed. If a program has been assessed a civil penalty, the civil penalty shall be reduced by 35 percent if the requirements of subrule 67.17(5) are met.

67.14(2) *If contesting the final report.* If the program desires to contest the final report and civil penalty, if assessed, the program shall notify the department of inspections and appeals in writing that it desires to contest the final report and civil penalty and shall do one of the following:

- a.* Request an informal conference with an independent reviewer pursuant to subrule 67.14(3); or
- b.* Request a contested case hearing in the manner provided by Iowa Code chapter 17A for contested cases.

67.14(3) *Informal conference.*

a. Request for informal conference. The request for an informal conference must be in writing and include the following:

- (1) Identification of the regulatory insufficiency(ies) being disputed;
- (2) The type of informal conference requested: face-to-face or telephone conference; and
- (3) A request for monitor's notes for the regulatory insufficiencies being disputed, if desired.

b. Submission of documentation. The program shall submit the following within 10 working days from the date of the program's written request for an informal conference:

- (1) The names of those who will be attending the informal conference, including legal counsel; and
- (2) Documentation supporting the program's position. The program must highlight or use some other means to identify written information pertinent to the disputed regulatory insufficiency(ies). Supporting documentation that is not submitted with the request for an informal conference will not be considered, except as otherwise permitted by the independent reviewer upon good cause shown. "Good cause" means substantial or adequate grounds for failing to submit documentation in a timely manner. In determining whether the program has shown good cause, the independent reviewer shall consider what circumstances kept the program from submitting the supporting documentation within the required time frame.

c. Face-to-face or telephone conference. A face-to-face or telephone conference, if requested, will be scheduled to occur within 10 working days of the receipt of the written request, all supporting documentation and the plan of correction required by subrule 67.13(3).

(1) Failure to submit supporting documentation will not delay scheduling.

(2) The conference will be scheduled for one hour. The program will informally present information and explanation concerning the contested regulatory insufficiency(ies). The department will have time to respond to the program's presentation. Due to the confidential nature of the conference, attendance may be limited.

(3) If additional information is requested by the independent reviewer during the informal conference, the program will have 2 working days to deliver the additional materials to the independent reviewer.

(4) When extenuating circumstances preclude a face-to-face conference, a telephone conference will be held or the program may be given one opportunity to reschedule the face-to-face conference.

d. Results. The results of the informal conference will generally be sent within 10 working days after the date of the informal conference, or within 10 working days after the receipt of additional information, if requested.

(1) The independent reviewer may affirm or may modify or dismiss the regulatory insufficiency and civil penalty. The independent reviewer shall state in writing the specific reasons for the affirmation, modification or dismissal of the regulatory insufficiency.

(2) The department will issue an amended (changes in factual content) or corrected (changes in typographical/data errors) final report if changes result from the informal conference.

(3) The program must submit to the department a new plan of correction for the amended or corrected report within 10 calendar days from the date of the letter conveying the results of the conference.

(4) If the informal conference results in dismissal of a regulatory insufficiency for which a civil penalty was assessed, the corresponding civil penalty will be rescinded.

67.14(4) Procedure after informal conference. After the conclusion of an informal conference:

a. If the program does not desire to further contest an affirmed or modified final report, the program shall, within 5 working days after receipt of the written decision of the independent reviewer, remit to the department of inspections and appeals the civil penalty, if assessed.

b. If the program does desire to further contest an affirmed or modified final report, the program shall, within 5 working days after receipt of the written decision of the independent reviewer, notify the department of inspections and appeals in writing that it desires to formally contest the final report.

67.14(5) Contested case hearings. Contested case hearings shall be conducted by the department's administrative hearings division pursuant to Iowa Code chapter 17A and 481—Chapter 10.

[ARC 8174B, IAB 9/23/09, effective 1/1/10; ARC 1055C, IAB 10/2/13, effective 1/1/14; ARC 1701C, IAB 10/29/14, effective 1/1/15; ARC 2142C, IAB 9/16/15, effective 10/21/15]

481—67.15(17A,231B,231C,231D) Denial, suspension or revocation of a certificate.

67.15(1) Notice and request for hearing. The denial, suspension or revocation of a certificate shall be effected by delivering to the applicant or certificate holder by restricted certified mail or by personal service a notice setting forth the particular reasons for such actions. A denial, suspension or revocation shall be effective 30 days after certified mailing or personal service of the notice, unless the applicant or certificate holder gives the department written notice requesting a hearing within the 30-day period. If a timely request for hearing is made, the notice shall be deemed suspended pending the outcome of the hearing, unless subrule 67.15(3) or 67.15(4) applies. If an enforcement action has been implemented immediately in accordance with subrule 67.15(3) or 67.15(4), the enforcement action remains in effect regardless of a request for hearing.

67.15(2) Hearings. Hearings shall be conducted by the administrative hearings division of the department of inspections and appeals pursuant to Iowa Code chapter 17A and 481—Chapter 10.

67.15(3) Immediate suspension of a certificate. When the department finds that an imminent danger to the health or safety of tenants of a program exists which requires action on an emergency basis, the

department may direct removal of all tenants from the program and suspend the certificate or require additional remedies to ensure the ongoing safety of the program's tenants prior to a hearing.

67.15(4) *Immediate imposition of enforcement action.* When the department finds that an imminent danger to the health or safety of tenants exists which requires action on an emergency basis, the department may immediately impose a conditional certificate and accompanying conditions upon the program in lieu of immediate suspension of the certificate and removal of the tenants from the program if the department finds that tenants' health and safety would still be protected. The program may request a hearing, but the immediate enforcement action remains in effect regardless of the request for hearing. [ARC 1055C, IAB 10/2/13, effective 1/1/14]

481—67.16(17A,231B,231C,231D) Conditional certification.

67.16(1) *Conditional certification.* In lieu of denial, suspension or revocation of a certificate, the department may issue a conditional certificate for a period of up to one year. Notwithstanding subrule 67.15(4), a conditional certificate shall be issued only when regulatory insufficiencies pose no greater risk to tenant health or safety than the potential for causing minimal harm.

a. The department shall specify the reasons for the conditional certificate in the notice issuing the conditional certificate.

b. The department may place conditions upon a certificate, such as requiring additional training; restriction of the program from accepting additional tenants for a period of time; or any other action or combination of actions deemed appropriate by the department.

c. Failure by the program to adhere to the plan of correction or conditions placed on the certificate may result in suspension or revocation of the conditional certification and may result in further enforcement action as available under applicable requirements.

d. A program must be in substantial compliance with applicable requirements before the removal of a conditional certificate by the department. Prior to lifting a conditional certificate, the department may conduct a monitoring to verify substantial compliance. Once the program is in substantial compliance with applicable requirements, the department shall lift the conditional certificate.

67.16(2) *Appeal of conditional certificate.* A written request for hearing must be received by the department within 30 days after the mailing or service of notice. The conditional certificate shall not be suspended pending the hearing. Hearings shall be conducted by the administrative hearings division of the department of inspections and appeals pursuant to Iowa Code chapter 17A and 481—Chapter 10. [ARC 1055C, IAB 10/2/13, effective 1/1/14]

481—67.17(17A,231B,231C,231D) Civil penalties.

67.17(1) *When civil penalties may be issued.* Civil penalties may be issued when the director finds that any of the following has occurred:

a. A program that does not comply with applicable requirements and the noncompliance results in imminent danger or a substantial probability of resultant death or physical harm to a tenant may be assessed a civil penalty of not more than \$10,000.

b. A program that continues to fail or refuses to comply with applicable requirements within prescribed time frames established by the department or approved by the department in the program's plan of correction and the noncompliance has a direct relationship to the health, safety, or security of tenants may be assessed a civil penalty of not more than \$5,000.

c. A program that prevents, interferes with or attempts to impede in any way any duly authorized representative of the department in the lawful enforcement of applicable requirements may be assessed a civil penalty of not more than \$1,000.

d. A program that discriminates or retaliates in any way against a tenant, tenant's family, or an employee of the program who has initiated or participated in any proceeding authorized by Iowa Code chapter 231B, 231C or 231D and the corresponding administrative rules may be assessed a civil penalty of not more than \$5,000.

67.17(2) *Duplicate civil penalties prohibited.* The department shall not impose duplicate civil penalties on a program for the same set of facts and circumstances.

67.17(3) *Factors in determining the amount of a civil penalty.* The department shall consider the following factors when determining the amount of a civil penalty:

- a.* The frequency and length of time the regulatory insufficiency occurred (i.e., whether the regulatory insufficiency was an isolated or a widespread occurrence, practice, or condition);
- b.* The past history of the program as it relates to the nature of the regulatory insufficiency (the department shall not consider more than the current certification period and the immediately previous certification period);
- c.* The culpability of the program as it relates to the reasons the regulatory insufficiency occurred;
- d.* The extent of any harm to the tenants or the effect on the health, safety, or security of the tenants which resulted from the regulatory insufficiency;
- e.* The relationship of the regulatory insufficiency to any other types of regulatory insufficiencies which have occurred in the program;
- f.* The actions of the program after the occurrence of the regulatory insufficiency, including when corrective measures, if any, were implemented and whether the program notified the director as required;
- g.* The accuracy and extent of records kept by the program which relate to the regulatory insufficiency, and the availability of such records to the department;
- h.* The rights of tenants to make informed decisions;
- i.* Whether the program made a good-faith effort to address a high-risk tenant's specific needs and whether the evidence substantiates this effort.

67.17(4) *Civil penalties due.* The civil penalty shall be paid to the department within 30 days following the program's receipt of the final report and demand letter. The program may appeal in accordance with rule 481—67.12(17A,231B,231D) or 481—67.14(17A,231C,85GA,SF394). If the program appeals, the civil penalty shall be deemed suspended until the appeal is resolved.

67.17(5) *Reduction of civil penalty amount by 35 percent.* If an assisted living program has been assessed a civil penalty, the civil penalty shall be reduced by 35 percent if both of the following requirements are met:

- a.* The program does not request a formal hearing pursuant to rule 481—67.12(17A,231B,231D) or 481—67.14(17A,231C,85GA,SF394), or withdraws its request for formal hearing within 30 calendar days of the date that the civil penalty was assessed; and
- b.* The civil penalty is paid and payment is received by the department within 30 calendar days of receipt of the final report.

[ARC 1055C, IAB 10/2/13, effective 1/1/14]

481—67.18(17A,231B,231C,231D) *Judicial review.* Judicial review shall be conducted pursuant to Iowa Code chapter 17A and 481—Chapter 10.

[ARC 1055C, IAB 10/2/13, effective 1/1/14]

481—67.19(135C,231B,231C,231D) *Criminal, dependent adult abuse, and child abuse record checks.*

67.19(1) *Definitions.* The following definitions apply for the purposes of this rule.

“Background check” or “record check” means criminal history, child abuse and dependent adult abuse record checks.

“Direct services” means services provided through person-to-person contact. “Direct services” excludes services provided by individuals such as building contractors, repair workers, or others who are in a program for a very limited purpose, who are not in the program on a regular basis, and who do not provide any treatment or services for residents, patients, tenants, or participants of the provider.

“Employed in a program” or “employment within a program” means all of the following, if the provider is regulated by the state or receives any federal or state funding:

- 1. An employee of an assisted living program certified under Iowa Code chapter 231C, if the employee provides direct services to consumers;
- 2. An employee of an elder group home certified under Iowa Code chapter 231B, if the employee provides direct services to consumers;

3. An employee of an adult day services program certified under Iowa Code chapter 231D, if the employee provides direct services to consumers.

“Employee” means any individual who is paid, either by the program or any other entity (i.e., temporary agency, private duty, Medicare/Medicaid or independent contractors).

“Evaluation” means review by the department of human services to determine whether a founded child abuse, dependent adult abuse or criminal conviction warrants the person’s being prohibited from employment in a program.

“Indirect services” means services provided without person-to-person contact such as those provided by administration, dietary, laundry, and maintenance.

“Program,” for purposes of this rule, means all of the following, if the provider is regulated by the state or receives any federal or state funding:

1. An assisted living program certified under Iowa Code chapter 231C;
2. An elder group home certified under Iowa Code chapter 231B; and
3. An adult day services program certified under Iowa Code chapter 231D.

67.19(2) *Explanation of “crime.”* For purposes of this rule, the term “crime” does not include offenses under Iowa Code chapter 321 classified as simple misdemeanor or equivalent simple misdemeanor offenses from another jurisdiction.

67.19(3) *Requirements for employer prior to employing an individual.* Prior to employment of a person in a program, the program shall request that the department of public safety perform a criminal history check and the department of human services perform child and dependent adult abuse record checks of the person in this state.

a. Informing the prospective employee. A program shall ask each person seeking employment by the program, “Do you have a record of founded child or dependent adult abuse or have you ever been convicted of a crime other than a simple misdemeanor offense relating to motor vehicles and laws of the road under Iowa Code chapter 321 or equivalent provisions in this state or any other state?” The person shall also be informed that a background check will be conducted. The person shall indicate, by signature, that the person has been informed that the background check will be conducted.

b. Conducting a background check. The program may access the single contact repository (SING) to perform the required background check. If the SING is used, the program shall submit the person’s maiden name, if applicable, with the background check request. If SING is not used, the program must obtain a criminal history check from the department of public safety and a check of the child and dependent adult abuse registries from the department of human services.

c. If a person considered for employment has been convicted of a crime. If a person being considered for employment in a program has been convicted of a crime under a law of any state, the department of public safety shall notify the program that upon the request of the program the department of human services will perform an evaluation to determine whether the crime warrants prohibition of the person’s employment in the program.

d. If a person considered for employment has a record of founded child abuse or dependent adult abuse. If a department of human services child or dependent adult abuse record check shows that a person being considered for employment in a program has a record of founded child or dependent adult abuse, the department of human services shall notify the program that upon the request of the program the department of human services will perform an evaluation to determine whether the founded child or dependent adult abuse warrants prohibition of employment in the program.

e. Employment pending evaluation. The program may employ a person for not more than 60 calendar days pending the completion of the evaluation by the department of human services if all of the following apply. The 60-day period begins on the first day of the person’s employment.

(1) The person is being considered for employment other than employment involving the operation of a motor vehicle;

(2) The person does not have a record of founded child or dependent adult abuse;

(3) The person has been convicted of a crime that is a simple misdemeanor offense under Iowa Code section 123.47 or a first offense of operating a motor vehicle while intoxicated under Iowa Code section 321J.2, subsection 1; and

(4) The program has requested an evaluation to determine whether the crime warrants prohibition of the person's employment.

67.19(4) *Validity of background check results.* The results of a background check conducted pursuant to this rule shall be valid for a period of 30 calendar days from the date the results of the background check are received by the program.

67.19(5) *Employment prohibition.* A person who has committed a crime or has a record of founded child or dependent adult abuse shall not be employed in a program unless an evaluation has been performed by the department of human services.

67.19(6) *Transfer of an employee to another program owned or operated by the same person.* If an employee transfers from one program to another program owned or operated by the same person, without a lapse in employment, the program is not required to request additional criminal and child and dependent adult abuse record checks of that employee.

67.19(7) *Transfer of ownership of a program.* If the ownership of a program is transferred, at the time of transfer the background check required by this rule shall be performed for each employee for whom there is no documentation that such background check has been performed. The program may continue to employ such employee pending the performance of the background check and any related evaluation.

67.19(8) *Change of employment—person with criminal or abuse record—exception to record check evaluation requirements.* A person with a criminal or abuse record who is or was employed by a certified program and is hired by another certified program shall be subject to the background check.

a. A reevaluation of the latest record check is not required, and the person may commence employment with the other certified program if the following requirements are met:

(1) The department of human services previously performed an evaluation concerning the person's criminal or abuse record and concluded the record did not warrant prohibition of the person's employment;

(2) The latest background check does not indicate a crime was committed or founded abuse record was entered subsequent to the prior evaluation;

(3) The position with the subsequent employer is substantially the same or has the same job responsibilities as the position for which the previous evaluation was performed;

(4) Any restrictions placed on the person's employment in the previous evaluation by the department of human services and still applicable shall remain applicable in the person's subsequent employment; and

(5) The person subject to the background check has maintained a copy of the previous evaluation and provided it to the subsequent employer, or the previous employer provides the previous evaluation from the person's personnel file pursuant to the person's authorization. If a physical copy of the previous evaluation is not provided to the subsequent employer, a current record check evaluation shall be performed.

b. For purposes of this subrule, a position is "substantially the same or has the same job responsibilities" if the position requires the same certification, licensure, or advanced training. For example, a licensed nurse has substantially the same or the same job responsibilities as a director of nursing; a certified nurse aide does not have substantially the same or the same job responsibilities as a licensed nurse.

c. The subsequent employer must maintain the previous evaluation in the employee's personnel file for verification of the exception to the requirement for a record check evaluation.

d. The subsequent employer may request a reevaluation of the background check and may employ the person while the reevaluation is being performed, even though an exemption under paragraph 67.19(8) "a" may be authorized.

67.19(9) *Employee notification of criminal convictions or founded abuse after employment.* If a person employed by an employer that is subject to this rule is convicted of a crime or has a record of founded child or dependent adult abuse entered in the abuse registry after the person's employment application date, the person shall inform the employer of such information within 48 hours of the criminal conviction or entry of the record of founded child or dependent adult abuse.

a. The employer shall act to verify the information within seven calendar days of notification. “Verify,” for purposes of this subrule, means to access the single contact repository (SING) to perform a background check, to request a criminal background check from the department of public safety, to request an abuse record check from the department of human services, to conduct an online search through the Iowa Courts Online Web site, or to contact the county clerk of court office and obtain a copy of relevant court documents.

b. If the information is verified, the program shall follow the requirements of paragraphs 67.19(3) “c” and “d.”

c. The employer may continue to employ the person pending the performance of an evaluation by the department of human services.

d. A person who is required by this subrule to inform the person’s employer of a conviction or entry of an abuse record and fails to do so within the required period commits a serious misdemeanor under Iowa Code section 135C.33.

e. The employer may notify the county attorney for the county where the employer is located of any violation or failure by an employee to notify the employer of a criminal conviction or entry of an abuse record within the period required under this subrule.

67.19(10) Program receipt of credible information that an employee has been convicted of a crime or founded for abuse. If the program receives credible information, as determined by the program, from someone other than the employee, that the employee has been convicted of a crime or a record of founded child or dependent adult abuse has been entered in the abuse registry after employment, and the employee has not informed the employer of the information within the time required by subrule 67.19(9), the program shall take the following actions:

a. The program shall act to verify credible information within seven calendar days of receipt. “Verify,” for purposes of this subrule, means to access the single contact repository (SING) to perform a background check, to request a criminal background check from the department of public safety, to request an abuse record check from the department of human services, to conduct an online search through the Iowa Courts Online Web site, or to contact the county clerk of court office and obtain a copy of relevant court documents.

b. If the information is verified, the program shall follow the requirements of paragraphs 67.19(3) “c” and “d.”

67.19(11) Proof of background checks for temporary employment agencies and contractors. Proof of background checks may be kept in the files maintained by temporary employment agencies and contractors. Facilities may require temporary employment agencies and contractors to provide a copy of the result of the background checks. Copies of such results shall be made available to the department upon request.

This rule is intended to implement Iowa Code sections 231B.2(1), 231C.3(1), 231D.2(2), and 135C.33 and 2013 Iowa Acts, Senate File 347.

[ARC 0963C, IAB 8/21/13, effective 9/25/13; ARC 1547C, IAB 7/23/14, effective 8/27/14]

481—67.20(17A,231C,231D) Emergency removal of tenants. If the department determines that the health or safety of tenants is in jeopardy and the tenants need to be removed from the program, the department shall use the following procedures to ensure a safe and orderly transfer.

67.20(1) The department shall notify the department of human services, the tenant advocate, the appropriate area agency on aging, and other agencies as necessary and appropriate:

- a. To alert them to the need to transfer tenants from a program;
- b. To request assistance in identifying alternative programs or other appropriate settings; and
- c. To contact the tenants and their legal representatives or family members, if applicable, and others as appropriate, including health care professionals.

67.20(2) The department shall notify the program of the immediate need to transfer tenants and of any assistance available, in coordination with the appropriate parties under subrule 67.20(1).

67.20(3) The department, in conjunction with other agencies as necessary and appropriate, shall proceed with the transfer of tenants.

[ARC 8174B, IAB 9/23/09, effective 1/1/10; ARC 1055C, IAB 10/2/13, effective 1/1/14]

481—67.21(231C) Nursing assistant work credit.

67.21(1) A person who is certified as a nursing assistant, including a medication aide, and who is supervised by a registered nurse may submit information to the department to obtain credit toward maintaining certification for working in a program. A program may add an employee to the direct care worker registry by calling (515)281-4077 or by registering through the health facilities division Web site at https://dia-hfd.iowa.gov/DIA_HFD/Home.do, under the “Documents” tab.

67.21(2) A program shall complete and submit to the department a direct care worker registry application for each certified nursing assistant who works in the program. A registered nurse employed by the program shall supervise the nursing assistant. The application may be obtained by telephone at (515)281-4077 or via the health facilities division Web site at https://dia-hfd.iowa.gov/DIA_HFD/Home.do, under the “Documents” tab.

67.21(3) A program shall complete and submit to the department a direct care worker registry quarterly employment report whenever a change in the employment of a certified nursing assistant occurs. The report form may be obtained by telephone at (515)281-4077 or via the health facilities division Web site at https://dia-hfd.iowa.gov/DIA_HFD/Home.do, under the “Documents” tab.

[ARC 8174B, IAB 9/23/09, effective 1/1/10; ARC 1055C, IAB 10/2/13, effective 1/1/14]

481—67.22(231B,231C,231D) Public or confidential information.

67.22(1) Public information.

a. Public disclosure of findings. The program shall post a notice stating that copies of the final report resulting from a monitoring are available via the department’s Web site at https://dia-hfd.iowa.gov/DIA_HFD/Home.do. The program shall post the notice in a prominent location on the premises of the program. Copies shall also be available upon request from the Department of Inspections and Appeals, Adult Services Bureau, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319-0083; telephone (515)281-6325.

b. Open records. The following records are open records available for inspection:

- (1) Certification applications, certification status, and accompanying materials;
- (2) Final findings of state monitorings, including a monitoring that results from a complaint or program-reported incident;
- (3) Reports from the state fire marshal;
- (4) Plans of correction submitted by a program;
- (5) Official notices of certification sanctions, including enforcement actions;
- (6) Findings of fact, conclusions of law, decisions and orders issued pursuant to rules 481—67.10(17A,231B,231C,231D), 481—67.12(17A,231B,231C,231D), and 481—67.13(17A,231B,231C,231D);
- (7) Waivers, including the department’s approval and denial letter and any letter requesting the waiver.

67.22(2) Confidential information. Confidential information includes the following:

- a.* Information that does not comprise a final report resulting from a monitoring, complaint investigation, or program-reported incident investigation. Information which does not comprise a final report may be made public in a legal proceeding concerning a denial, suspension or revocation of certification;
- b.* Names of all complainants;
- c.* Names of tenants of a program, identifying medical information, copies of documentation appointing a legal representative, and the address of anyone other than an owner or operator; and
- d.* Social security numbers or employer identification numbers (EIN).

67.22(3) *Redaction of confidential information.* If a record normally open for inspection contains confidential information, the confidential information shall be redacted before the records are provided for inspection.

[ARC 8174B, IAB 9/23/09, effective 1/1/10; ARC 1055C, IAB 10/2/13, effective 1/1/14]

481—67.23(231B,231C,231D) Training related to Alzheimer’s disease and similar forms of irreversible dementia. Rescinded ARC 1547C, IAB 7/23/14, effective 8/27/14.

These rules are intended to implement Iowa Code chapters 231B, 231C as amended by 2013 Iowa Acts, Senate File 394, and 231D.

[Filed ARC 8174B (Notice ARC 7877B, IAB 6/17/09), IAB 9/23/09, effective 1/1/10]

[Filed ARC 0961C (Notice ARC 0809C, IAB 6/26/13), IAB 8/21/13, effective 9/25/13]

[Filed ARC 0963C (Notice ARC 0808C, IAB 6/26/13), IAB 8/21/13, effective 9/25/13]

[Filed ARC 1050C (Notice ARC 0907C, IAB 8/7/13), IAB 10/2/13, effective 11/6/13]

[Filed ARC 1055C (Notice ARC 0941C, IAB 8/7/13), IAB 10/2/13, effective 1/1/14]

[Filed ARC 1547C (Notice ARC 1472C, IAB 5/28/14), IAB 7/23/14, effective 8/27/14]

[Filed ARC 1701C (Notice ARC 1616C, IAB 9/3/14), IAB 10/29/14, effective 1/1/15]

[Filed ARC 1994C (Notice ARC 1942C, IAB 4/1/15), IAB 5/27/15, effective 7/1/15]

[Filed ARC 2142C (Notice ARC 2067C, IAB 7/22/15), IAB 9/16/15, effective 10/21/15]

[Filed ARC 2463C (Notice ARC 2200C, IAB 10/14/15), IAB 3/16/16, effective 4/20/16]

CHAPTER 69 ASSISTED LIVING PROGRAMS

481—69.1(231C) Definitions. In addition to the definitions in 481—Chapter 67 and Iowa Code chapter 231C, the following definitions apply.

“Accredited” means that the program has received accreditation from an accreditation entity recognized in subrule 69.14(1).

“Applicable requirements” means Iowa Code chapter 231C, this chapter, and 481—Chapter 67 and includes any other applicable administrative rules and provisions of the Iowa Code.

“Assisted living” or *“program”* means provision of housing with services, which may include but are not limited to health-related care, personal care, and assistance with instrumental activities of daily living, to three or more tenants in a physical structure which provides a homelike environment. “Assisted living” also includes encouragement of family involvement, tenant self-direction, and tenant participation in decisions that emphasize choice, dignity, privacy, individuality, shared risk, and independence. “Assisted living” includes the provision of housing and assistance with instrumental activities of daily living only if personal care or health-related care is also included. “Assisted living” includes 24 hours per day response staff to meet scheduled and unscheduled or unpredictable needs in a manner that promotes maximum dignity and independence and provides supervision, safety, and security.

“CARF” means the Commission on Accreditation of Rehabilitation Facilities.

“Change of ownership” means the purchase, transfer, assignment or lease of a certified assisted living program and includes a change in the management company responsible for the day-to-day operation of the program, if the management company is ultimately responsible for any enforcement action taken by the department.

“Cognitive disorder” means a disorder characterized by cognitive dysfunction presumed to be the result of illness that does not meet the criteria for dementia, delirium, or amnesic disorder.

“Dementia-specific assisted living program” means an assisted living program certified under this chapter that:

1. Serves fewer than 55 tenants and has 5 or more tenants who have dementia between Stages 4 and 7 on the Global Deterioration Scale, or
2. Serves 55 or more tenants and 10 percent or more of the tenants have dementia between Stages 4 and 7 on the Global Deterioration Scale, or
3. Holds itself out as providing specialized care for persons with dementia, such as Alzheimer’s disease, in a dedicated setting.

“Dwelling unit” means a single unit which provides complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping and sanitation, and which may include permanent provisions for eating and cooking. “Sanitation” for purposes of this definition means bathroom fixtures as required by this chapter.

“In the proximate area” means located within a five minutes or less response time.

“Maximal assistance with activities of daily living” means routine total dependence on staff for the performance of a minimum of four activities of daily living for a period that exceeds 21 days.

“Medically unstable” means that a tenant has a condition or conditions:

1. Indicating physiological frailty as determined by the program’s staff in consultation with a physician or physician extender;
2. Resulting in three or more significant hospitalizations within a consecutive three-month period for more than observation; and
3. Requiring frequent supervision of the tenant for more than 21 days by a registered nurse.

For example, a tenant who has a condition such as congestive heart failure which results in three or more significant hospitalizations during a quarter and which requires that the tenant receive frequent supervision may be considered medically unstable.

“Nonaccredited” means that the program has been certified under the provisions of this chapter but has not received accreditation from an accreditation entity recognized in subrule 69.14(1).

“Unmanageable incontinence” means a condition that requires staff provision of total care for an incontinent tenant who lacks the ability to assist in bladder or bowel continence care.

“Unmanageable verbal abuse” means repeated verbalizations against tenants or staff that persist despite all interventions and that negatively affect the program. “Unmanageable verbal abuse” includes but is not limited to threats, frequent use of profane language, or unwelcome sexually oriented remarks. [ARC 8176B, IAB 9/23/09, effective 1/1/10; ARC 1927C, IAB 4/1/15, effective 5/6/15; ARC 2463C, IAB 3/16/16, effective 4/20/16]

481—69.2(231C) Program certification. A program may obtain certification by meeting all applicable requirements. In addition, a program may be voluntarily accredited by a recognized accreditation entity. For the purpose of these rules, certification is equivalent to licensure.

69.2(1) Posting requirements. A program’s current certificate shall be visibly displayed within the designated operation area of the program. In addition, the latest monitoring report, state fire marshal report, and food establishment inspections report issued pursuant to Iowa Code chapter 137F shall be made available to the public by the program upon request.

69.2(2) Dementia-specific programs and door alarms. If a program meets the definition of a dementia-specific assisted living program during two sequential certification monitorings, the program shall meet all requirements for a dementia-specific program, including the requirements set forth in rule 481—69.30(231C), subrules 69.29(2) and 69.29(4), paragraph 69.35(1) “d,” and subrules 69.32(2) and 69.32(3), which include the requirements relating to door alarms and specialized locking systems.

69.2(3) Dementia-specific program by definition. If a program meets the definition of a dementia-specific assisted living program during two sequential certification monitorings based on the number of tenants served who have dementia between Stages 4 and 7 on the Global Deterioration Scale, the program shall be deemed a dementia-specific program by definition. If the number of tenants served who have dementia between Stages 4 and 7 on the Global Deterioration Scale goes below that which is required by the definition of dementia-specific program at any time after the program has been deemed dementia-specific by definition and the program is not holding itself out as providing dementia care in a specialized setting, the program will no longer be considered dementia-specific.

[ARC 8176B, IAB 9/23/09, effective 1/1/10; ARC 2463C, IAB 3/16/16, effective 4/20/16]

481—69.3(231C) Certification of a nonaccredited program—application process.

69.3(1) The applicant shall complete an application packet obtained from the department. Application materials may be obtained from the health facilities division Web site at https://dia-hfd.iowa.gov/DIA_HFD/Home.do; by mail from the Department of Inspections and Appeals, Adult Services Bureau, Lucas State Office Building, Third Floor, 321 E. 12th Street, Des Moines, Iowa 50319-0083; or by telephone at (515)281-6325.

69.3(2) The applicant shall submit one copy of the completed application and all supporting documentation to the department at the above address at least 90 calendar days prior to the expected date of beginning operation.

69.3(3) The appropriate fee as stated in Iowa Code section 231C.18 shall accompany each application and be payable by check or money order to the Department of Inspections and Appeals. Fees are nonrefundable.

69.3(4) The department shall consider the application when all supporting documents and fees are received.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.4(231C) Nonaccredited program—application content. An application for certification or recertification of a nonaccredited program shall include the following:

69.4(1) A list that includes the names, addresses, and percentage of stock, shares, partnership or other equity interest of all officers, members of the board of directors and trustees, as well as stockholders, partners or any individuals who have greater than a 10 percent equity interest in each of the following, as applicable:

- a. The real estate owner or lessor;
- b. The lessee; and

c. The management company responsible for the day-to-day operation of the program.

The program shall notify the department of any changes in the list no later than ten working days after the effective date of the change.

69.4(2) A statement disclosing whether the individuals listed in subrule 69.4(1) have been convicted of a felony or an aggravated or serious misdemeanor or found to be in violation of the child abuse or dependent adult abuse laws of any state.

69.4(3) A statement disclosing whether any of the individuals listed in subrule 69.4(1) have or have had an ownership interest in an assisted living program, adult day services program, elder group home, home health agency, licensed health care facility as defined in Iowa Code section 135C.1, or licensed hospital as defined in Iowa Code section 135B.1, which has been closed in any state due to removal of program, agency, or facility licensure, certification, or registration or due to involuntary termination from participation in either the Medicaid or Medicare program; or have been found to have failed to provide adequate protection or services to prevent abuse or neglect of residents, patients, tenants or participants.

69.4(4) The policy and procedure for evaluation of each tenant. A copy of the evaluation tool or tools to be used to identify the functional, cognitive and health status of each tenant shall be included.

69.4(5) The policy and procedure for service plans.

69.4(6) The policy and procedure for addressing medication needs of tenants.

69.4(7) The policy and procedure for accidents and emergency response, including provisions related to head injuries.

69.4(8) The policies and procedures for food service, including those relating to staffing, nutrition, menu planning, therapeutic diets, and food preparation, service and storage.

69.4(9) The policy and procedure for activities.

69.4(10) The policy and procedure for transportation.

69.4(11) The policy and procedure for staffing and training.

69.4(12) The policy and procedure for emergencies, including natural disasters. The policy and procedure shall include an evacuation plan and procedures for notifying legal representatives in emergency situations as applicable.

69.4(13) The policy and procedure for managing risk and upholding tenant autonomy when tenant decision making results in poor outcomes for the tenant or others.

69.4(14) The policy and procedure for reporting incidents including dependent adult abuse as required in rule 481—67.2(231B,231C,231D).

69.4(15) The policy and procedure related to life safety requirements for a dementia-specific program as required by subrule 69.32(2).

69.4(16) The tenant occupancy agreement and all attachments.

69.4(17) If the program contracts for personal care or health-related care services from a certified home health agency, a mental health center or a licensed health care facility, a copy of that entity's current license or certification.

69.4(18) A copy of the state license for the entity that provides food service, whether the entity is the program or an outside entity or a combination of both.

69.4(19) The fee set forth in Iowa Code section 231C.18.

69.4(20) The policy and procedure for addressing sexual relationships between tenants and staff or between tenants with dementia greater than Stage 5 on the Global Deterioration Scale.

[ARC 8176B, IAB 9/23/09, effective 1/1/10; ARC 1927C, IAB 4/1/15, effective 5/6/15; ARC 2463C, IAB 3/16/16, effective 4/20/16]

481—69.5(231C) Initial certification process for a nonaccredited program.

69.5(1) Upon receipt of all completed documentation, including state fire marshal approval and structural and evacuation review approval, the department shall determine whether or not the proposed program meets applicable requirements.

69.5(2) If, based upon the review of the complete application including all required supporting documents, the department determines the proposed program meets the requirements for certification, a provisional certification shall be issued to the program to begin operation and accept tenants.

69.5(3) Within 180 calendar days following issuance of provisional certification, the department shall conduct a monitoring to determine the program's compliance with applicable requirements.

69.5(4) If a regulatory insufficiency is identified as a result of the monitoring, the process in rule 481—67.10(17A,231B,231C,231D) shall be followed.

69.5(5) The department shall make a final certification decision based on the results of the monitoring and review of an acceptable plan of correction.

69.5(6) The department shall notify the program of a final certification decision within 10 working days following the finalization of the monitoring report or receipt of an acceptable plan of correction, whichever is applicable.

69.5(7) If the decision is to continue certification, the department shall issue a full two-year certification effective from the date of the original provisional certification.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.6(231C) Expiration of the certification of a nonaccredited program.

69.6(1) Unless conditionally issued, suspended or revoked, certification of a program shall expire at the end of the time period specified on the certificate.

69.6(2) The department shall send recertification application materials to each program at least 120 calendar days prior to expiration of the program's certification.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.7(231C) Recertification process for a nonaccredited program. To obtain recertification, a program shall:

69.7(1) Submit one copy of the completed application, including the information required in rule 481—69.4(231C), associated documentation, and the recertification fee as listed in Iowa Code section 231C.18 to the department at the address stated in subrule 69.3(1) at least 90 calendar days prior to the expiration of the program's certification. The program need not submit policies and procedures that have been previously submitted to the department and remain unchanged. The program shall provide a list of the policies and procedures that have been previously submitted and are not being resubmitted.

69.7(2) Submit additional documentation that each of the following has been inspected by a qualified professional and found to be maintained in conformance with the manufacturer's recommendations and nationally recognized standards: heating system, cooling system, water heater, electrical system, plumbing, sewage system, artificial lighting, and ventilation system; and, if located on site, garbage disposal, kitchen appliances, washing machines and dryers, and elevators.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.8(231C) Notification of recertification for a nonaccredited program.

69.8(1) The department shall review the application and associated documentation and fees. If the application is incomplete, the department shall contact the program to request the additional information. After all finalized documentation is received, including state fire marshal approval, the department shall determine the program's compliance with applicable requirements.

69.8(2) The department shall conduct a monitoring of the program between 60 and 90 days prior to expiration of the program's certification.

69.8(3) If a regulatory insufficiency is identified as a result of the monitoring, the process in rule 481—67.10(17A,231B,231C,231D) shall be followed.

69.8(4) If no regulatory insufficiency is identified as a result of the monitoring, the department shall issue a report of the findings with the final recertification decision.

69.8(5) If the decision is to recertify, the department shall issue the program a two-year certification effective from the date of the expiration of the previous certification.

69.8(6) If the decision is to deny recertification, the department shall issue a notice of denial and provide the program the opportunity for a hearing pursuant to rule 481—67.13(17A,231B,231C,231D).

69.8(7) If the department is unable to recertify a program through no fault of the program, the department shall issue to the program a time-limited extension of certification of no longer than one year.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.9(231C) Certification or recertification of an accredited program—application process.

69.9(1) An applicant for certification or recertification of a program accredited by a recognized accrediting entity shall:

a. Submit a completed application packet obtained from the department. Application materials may be obtained from the health facilities division Web site at https://dia-hfd.iowa.gov/DIA_HFD/Home.do; by mail from the Department of Inspections and Appeals, Adult Services Bureau, Lucas State Office Building, Third Floor, 321 E. 12th Street, Des Moines, Iowa 50319-0083; or by telephone at (515)281-6325.

b. Submit a copy of the current accreditation outcome from the recognized accrediting entity.

c. Apply for certification or recertification within 90 calendar days following verification of compliance with life safety requirements pursuant to this chapter.

d. Maintain compliance with the state fire marshal division's requirements.

e. Submit the appropriate fees as set forth in Iowa Code section 231C.18.

69.9(2) The department shall not consider an application until it is complete and includes all supporting documentation and the appropriate fees.

[ARC 8176B, IAB 9/23/09, effective 1/1/10; ARC 2463C, IAB 3/16/16, effective 4/20/16]

481—69.10(231C) Certification or recertification of an accredited program—application content. An application for certification or recertification of an accredited program shall include the following:

69.10(1) A list that includes the names, addresses and percentage of stock, shares, partnership or other equity interest of all officers, members of the board of directors, and trustees, as well as stockholders, partners or any individuals who have greater than a 10 percent equity interest in each of the following, as applicable:

a. The real estate owner or lessor;

b. The lessee; and

c. The management company responsible for the day-to-day operation of the program.

The program shall notify the department of any changes in the list no later than ten working days after the effective date of the change.

69.10(2) A statement disclosing whether the individuals listed in subrule 69.10(1) have been convicted of a felony or an aggravated or serious misdemeanor or found to be in violation of the child abuse or dependent adult abuse laws of any state.

69.10(3) A statement disclosing whether any of the individuals listed in subrule 69.10(1) have or have had an ownership interest in a program, adult day services program, elder group home, home health agency, licensed health care facility as defined under Iowa Code section 135C.1, or licensed hospital as defined under Iowa Code section 135B.1, which has been closed in any state due to removal of program, agency, or facility licensure or certification or due to involuntary termination from participation in either the Medicaid or Medicare program; or have been found to have failed to provide adequate protection or services to prevent abuse or neglect of residents, patients, tenants or participants.

69.10(4) A copy of the current accreditation outcome from the recognized accrediting entity.

[ARC 8176B, IAB 9/23/09, effective 1/1/10; ARC 1927C, IAB 4/1/15, effective 5/6/15]

481—69.11(231C) Initial certification process for an accredited program.

69.11(1) Within 20 working days of receiving all finalized documentation, including state fire marshal approval, the department shall determine and notify the accredited program whether or not the accredited program meets applicable requirements and whether or not certification will be issued.

69.11(2) If the decision is to certify, a certification shall be issued for the term of the accreditation not to exceed three years, unless the certification is conditionally issued, suspended or revoked by either the department or the recognized accrediting entity.

69.11(3) If the decision is to deny certification, the department shall provide the applicant an opportunity for hearing in accordance with rule 481—67.13(17A,231B,231C,231D).

69.11(4) Unless conditionally issued, suspended or revoked, certification for a program shall expire at the end of the time period specified on the certificate.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.12(231C) Recertification process for an accredited program.

69.12(1) The department shall send recertification application materials to each program at least 120 calendar days prior to expiration of the program's certification.

69.12(2) To obtain recertification, an accredited program shall submit one copy of the completed application, associated documentation, and the administrative fee as stated in Iowa Code section 231C.18 to the department at the address stated in subrule 69.9(1) at least 90 calendar days prior to the expiration of the program's certification.

69.12(3) Within 20 working days of receiving all finalized documentation, including state fire marshal approval, the department shall determine the program's compliance with applicable requirements and make a recertification decision.

69.12(4) The department shall notify the accredited program within 10 working days of the final recertification decision.

a. If the decision is to recertify, a full certification shall be issued for the term of the accreditation not to exceed three years, unless the certification is conditionally issued, suspended or revoked by either the department or the recognized accrediting entity.

b. If the decision is to deny recertification, the department shall provide the applicant an opportunity for hearing in accordance with rule 481—67.13(17A,231B,231C,231D).

69.12(5) If the department is unable to recertify a program through no fault of the program, the department shall issue to the program a time-limited extension of certification of no longer than one year.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.13(231C) Listing of all certified programs. The department shall maintain a list of all certified programs, which is available online at https://dia-hfd.iowa.gov/DIA_HFD/Home.do under the "Entities Book" tab.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.14(231C) Recognized accrediting entity.

69.14(1) The department designates CARF as a recognized accrediting entity for programs.

69.14(2) To apply for designation by the department as a recognized accrediting entity for programs, an accrediting entity shall submit a letter of request, and its standards shall, at minimum, meet the applicable requirements for programs.

69.14(3) The designation shall remain in effect for as long as the accreditation standards continue to meet, at minimum, the applicable requirements for programs.

69.14(4) An accrediting entity shall provide annually to the department, at no cost, a current edition of the applicable standards manual and survey preparation guide, and training thereon, within 120 working days after the publications are released.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.15(231C) Requirements for an accredited program. Each accredited program that is certified by the department shall:

69.15(1) Provide the department a copy of all survey reports including outcomes, quality improvement plans and annual conformance to quality reports generated or received, as applicable, within ten working days of receipt of the reports.

69.15(2) Notify the department by the most expeditious means possible of all credible reports of alleged improper or inappropriate conduct or conditions within the program and any actions taken by the accrediting entity with respect thereto.

69.15(3) Notify the department immediately of the expiration, suspension, revocation or other loss of the program's accreditation.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.16(231C) Maintenance of program accreditation.

69.16(1) An accredited program shall continue to be recognized for certification by the department if both of the following requirements are met:

- a.* The program complies with the requirements outlined in rule 481—69.15(231C).
- b.* The program maintains its voluntary accreditation status for the duration of the time-limited certification period.

69.16(2) A program that does not maintain its voluntary accreditation status must become certified by the department prior to any lapse in accreditation.

69.16(3) A program that does not maintain its voluntary accreditation status and is not certified by the department prior to any lapse in voluntary accreditation shall cease operation as a program.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.17(231C) Change of ownership—notification to the department.

69.17(1) Certification, unless conditionally issued, suspended or revoked, may be transferable. If the program's certification has been conditionally issued, the department must approve a change of ownership prior to the transfer of the certification.

69.17(2) In order to transfer certification, the applicant must:

- a.* Meet the requirements of the rules, regulations and standards contained in Iowa Code chapter 231C and 481—Chapter 67 and this chapter; and
- b.* At least 30 days prior to the change of ownership of the program, make application on forms provided by the department.

69.17(3) The department may conduct a monitoring within 90 days following a change in the program's ownership to ensure that the program complies with applicable requirements. If a regulatory insufficiency is found, the department shall take any necessary enforcement action authorized by applicable requirements.

[ARC 1927C, IAB 4/1/15, effective 5/6/15]

481—69.18(231C) Plan reviews of a building for a new program.

69.18(1) Before a building is constructed or remodeled for use in a new program, the state fire marshal division of the department of public safety shall review the blueprints for compliance with requirements pursuant to this chapter. Construction or remodeling includes new construction, remodeling of any part of an existing building, addition of a new wing or floor to an existing building, or conversion of an existing building.

69.18(2) A program applicant shall submit blueprints wet-sealed by an Iowa-licensed architect or Iowa-licensed engineer and the blueprint plan review fee as stated in Iowa Code section 231C.18 to the Department of Public Safety, State Fire Marshal Division, 215 E. 7th Street, Third Floor, Des Moines, Iowa 50319.

69.18(3) Failure to submit the blueprint plan review fee with the blueprints shall result in delay of the blueprint plan review until the fee is received.

69.18(4) The state fire marshal division of the department of public safety shall review the blueprints and notify the Iowa-licensed architect or Iowa-licensed engineer in writing regarding the status of compliance with requirements.

69.18(5) The Iowa-licensed architect or Iowa-licensed engineer shall respond to the state fire marshal division of the department of public safety to state how any noncompliance will be resolved.

69.18(6) Upon final notification by the state fire marshal division of the department of public safety that the blueprints meet the state fire marshal division's requirements, construction or remodeling of the building may commence.

69.18(7) The state fire marshal division of the department of public safety shall schedule an on-site visit of the building site with the contractor, or Iowa-licensed architect or Iowa-licensed engineer, during the construction or remodeling process to ensure compliance with the approved blueprints. Any noncompliance must be resolved prior to approval for certification.

[ARC 8176B, IAB 9/23/09, effective 1/1/10; ARC 2463C, IAB 3/16/16, effective 4/20/16]

481—69.19(231C) Plan review prior to the remodeling of a building for a certified program.

69.19(1) Before a building for a certified program is remodeled, the state fire marshal division of the department of public safety shall review the blueprints for compliance with requirements set forth in rule 481—69.35(231C). Remodeling includes modification of any part of an existing building, addition of a new wing or floor to an existing building, or conversion of an existing building.

69.19(2) A certified program shall submit blueprints wet-sealed by an Iowa-licensed architect or Iowa-licensed engineer and the blueprint plan review fee as stated in Iowa Code section 231C.18 to the Department of Public Safety, State Fire Marshal Division, 215 E. 7th Street, Third Floor, Des Moines, Iowa 50319.

69.19(3) Failure to submit the blueprint plan review fee with the blueprints shall result in delay of the blueprint plan review until the fee is received.

69.19(4) Upon final notification by the state fire marshal division of the department of public safety that the blueprints meet structural and life safety requirements, remodeling of the building may commence.

69.19(5) The state fire marshal division of the department of public safety shall schedule an on-site visit of the building with the contractor, or Iowa-licensed architect or Iowa-licensed engineer, during the remodeling process to ensure compliance with the approved blueprints. Any noncompliance must be resolved prior to approval for continued certification or recertification of the program.

[ARC 8176B, IAB 9/23/09, effective 1/1/10; ARC 2463C, IAB 3/16/16, effective 4/20/16]

481—69.20(231C) Cessation of program operation.

69.20(1) If a certified program ceases operation, which includes seeking decertification, at any time prior to expiration of the program's certification, the program shall submit the certificate to the department. At least 90 days in advance of cessation or decertification, the program shall provide to the department and the office of long-term care ombudsman written notification of the date on which the program will cease operation or decertify.

69.20(2) If a certified program plans to cease operation, which includes seeking decertification, at the time the program's certification expires, the program shall provide written notice of this fact to the department and the office of long-term care ombudsman at least 90 days prior to expiration of the certification.

69.20(3) At the time a program decides to cease operation, which includes seeking decertification, the program shall submit a plan to the department and make arrangements for the safe and orderly transfer or transition of all tenants within the 90-day period specified by subrule 69.20(2).

69.20(4) The department may conduct a monitoring during the 90-day period to ensure the safety of tenants during the transfer process or transition process.

69.20(5) The department may conduct an on-site visit to verify that the program has ceased operation as a certified program in accordance with the notice provided by the program.

69.20(6) When a program ceases operation, which includes seeking decertification, representatives from the office of long-term care ombudsman shall be allowed by the program to privately meet with tenants to provide education and service options.

[ARC 8176B, IAB 9/23/09, effective 1/1/10; ARC 2463C, IAB 3/16/16, effective 4/20/16]

481—69.21(231C) Occupancy agreement.

69.21(1) The occupancy agreement shall be in 12-point type or larger, shall be written in plain language using commonly understood terms and shall be easy for the tenant or the tenant's legal representative to understand.

69.21(2) In addition to the requirements of Iowa Code section 231C.5, the written occupancy agreement shall include, but not be limited to, the following information in the body of the agreement or in the supporting documents and attachments:

- a. The telephone number for filing a complaint with the department.
- b. The telephone number for the office of long-term care ombudsman.
- c. The telephone number for reporting dependent adult abuse.
- d. A copy of the program's statement on tenants' rights.
- e. A statement that the tenant landlord law applies to assisted living programs.
- f. A statement that the program will notify the tenant at least 90 days in advance of any planned program cessation, which includes voluntary decertification, except in cases of emergency.

69.21(3) The occupancy agreement shall be reviewed and updated as necessary to reflect any change in services or financial arrangements.

69.21(4) A copy of the occupancy agreement shall be provided to the tenant or the tenant's legal representative, if any, and a copy shall be kept by the program.

69.21(5) A copy of the most current occupancy agreement shall be made available to the general public upon request. The basic marketing material shall include a statement that a copy of the occupancy agreement is available to all persons upon request.

[ARC 8176B, IAB 9/23/09, effective 1/1/10; ARC 2463C, IAB 3/16/16, effective 4/20/16]

481—69.22(231C) Evaluation of tenant.

69.22(1) *Evaluation prior to occupancy.* A program shall evaluate each prospective tenant's functional, cognitive and health status prior to the tenant's signing the occupancy agreement and taking occupancy of a dwelling unit in order to determine the tenant's eligibility for the program, including whether the services needed are available. The cognitive evaluation shall utilize a scored, objective tool. When the score from the cognitive evaluation indicates moderate cognitive decline and risk, the Global Deterioration Scale shall be used at all subsequent intervals, if applicable. If the tenant subsequently returns to the tenant's mildly cognitively impaired state, the program may discontinue the GDS and revert to a scored cognitive screening tool. The evaluation shall be conducted by a health care professional or human service professional.

69.22(2) *Evaluation within 30 days of occupancy and with significant change.* A program shall evaluate each tenant's functional, cognitive and health status within 30 days of occupancy. A program shall also evaluate each tenant's functional, cognitive and health status as needed with significant change, but not less than annually, to determine the tenant's continued eligibility for the program and to determine any changes to services needed. The evaluation shall be conducted by a health care professional or human service professional. A licensed practical nurse may complete the evaluation via nurse delegation when the tenant has not exhibited a significant change.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.23(231C) Criteria for admission and retention of tenants.

69.23(1) *Persons who may not be admitted or retained.* A program shall not knowingly admit or retain a tenant who:

- a. Is bed-bound; or
- b. Requires routine, two-person assistance with standing, transfer or evacuation; or
- c. Is dangerous to self or other tenants or staff, including but not limited to a tenant who:
 - (1) Despite intervention chronically elopes, is sexually or physically aggressive or abusive, or displays unmanageable verbal abuse or aggression; or
 - (2) Displays behavior that places another tenant at risk; or
- d. Is in an acute stage of alcoholism, drug addiction, or uncontrolled mental illness; or
- e. Is under the age of 18; or

- f. Requires more than part-time or intermittent health-related care; or
 - g. Has unmanageable incontinence on a routine basis despite an individualized toileting program;
- or
- h. Is medically unstable; or
 - i. Requires maximal assistance with activities of daily living; or
 - j. Despite intervention, chronically urinates or defecates in places that are not considered acceptable according to societal norms, such as on the floor or in a potted plant.

69.23(2) *Disclosure of additional occupancy and transfer criteria.* A program may have additional occupancy or transfer criteria if the criteria are disclosed in the written occupancy agreement prior to the tenant's occupancy.

69.23(3) *Assistance with transfer from the program.* A program shall provide assistance to a tenant and the tenant's legal representative, if applicable, to ensure a safe and orderly transfer from the program when the tenant exceeds the program's criteria for admission and retention.

[ARC 8176B, IAB 9/23/09, effective 1/1/10; ARC 2463C, IAB 3/16/16, effective 4/20/16]

481—69.24(231C) Involuntary transfer from the program.

69.24(1) *Program initiation of transfer.* If a program initiates the involuntary transfer of a tenant and the action is not the result of a monitoring, including a complaint investigation or program-reported incident investigation, by the department and if the tenant or tenant's legal representative contests the transfer, the following procedures shall apply:

- a. The program shall notify the tenant or tenant's legal representative, in accordance with the occupancy agreement, of the need to transfer the tenant and of the reason for the transfer and shall include the contact information for the office of long-term care ombudsman.
- b. The program shall immediately provide to the office of long-term care ombudsman, by certified mail, a copy of the notification and notify the tenant's treating physician, if any.
- c. Pursuant to statute, the office of long-term care ombudsman shall offer the notified tenant or tenant's legal representative assistance with the program's internal appeal process. The tenant or tenant's legal representative is not required to accept the assistance of the office of long-term care ombudsman.
- d. If, following the internal appeal process, the program upholds the transfer decision, the tenant or tenant's legal representative may utilize other remedies authorized by law to contest the transfer.

69.24(2) *Transfer pursuant to results of monitoring or complaint or program-reported incident investigation by the department.* If one or more tenants are identified as exceeding the admission and retention criteria for tenants and need to be transferred as a result of a monitoring or a complaint or program-reported incident investigation conducted by the department, the following procedures shall apply:

- a. *Program agreement with the department's finding.* If the program agrees with the department's finding and the program begins involuntary transfer proceedings, the program's internal appeal process in subrule 69.24(1) shall be utilized for appeals.
- b. *Program disagreement with the department's finding.* If the program does not agree with the department's finding that the tenant exceeds admission and retention criteria, the program may appeal the department's final report as provided in rule 481—67.14(17A,231B,231C,231D,85GA,HF2365). If an appeal is filed, the tenant who exceeds admission and retention criteria shall be allowed to continue living at the program until all administrative appeals have been exhausted. Appeals filed that relate to the tenant's exceeding admission and retention criteria shall be heard within 30 days of receipt, and appropriate services to meet the tenant's needs shall be provided during that period of time.
- c. *Request for waiver of criteria for retention of a tenant in a program.* To allow a tenant to remain in the program, the program may request a waiver of criteria for retention of a tenant pursuant to rule 481—67.7(231B,231C,231D) from the department within 10 working days of the receipt of the report.

[ARC 8176B, IAB 9/23/09, effective 1/1/10; ARC 2463C, IAB 3/16/16, effective 4/20/16]

481—69.25(231C) Tenant documents.

69.25(1) Documentation for each tenant shall be maintained by the program and shall include:

- a.* An occupancy record including the tenant's name, birth date, and home address; identification numbers; date of occupancy; name, address and telephone number of health professional(s); diagnosis; and names, addresses and telephone numbers of family members, friends or other designated people to contact in the event of illness or an emergency;
- b.* Application forms;
- c.* The initial evaluations and updates;
- d.* A nutritional assessment as necessary;
- e.* The initial individual service plan and updates;
- f.* Signed authorizations for permission to release medical information, photographs, or other media information as necessary;
- g.* A signed authorization for the tenant to receive emergency medical care as necessary;
- h.* A signed managed risk policy and signed managed risk consensus agreements, if any;
- i.* When any personal or health-related care is delegated to the program, the medical information sheet; documentation of health professionals' orders, such as those for treatment, therapy, and medication; and nurses' notes written by exception;
- j.* Medication lists, which shall be maintained in conformance with 481—subrule 67.5(4);
- k.* Advance health care directives as applicable;
- l.* A complete copy of the tenant's occupancy agreement, including any updates;
- m.* A written acknowledgment that the tenant or the tenant's legal representative, if applicable, has been fully informed of the tenant's rights;
- n.* A copy of guardianship, durable power of attorney for health care, power of attorney, or conservatorship or other documentation of a legal representative;
- o.* Incident reports involving the tenant, including but not limited to those related to medication errors, accidents, falls, and elopements (such reports shall be maintained by the program but need not be included in the tenant's medical record);
- p.* A copy of waivers of admission or retention criteria, if any;
- q.* When the tenant is unable to advocate on the tenant's own behalf or the tenant has multiple service providers, including hospice care providers, accurate documentation of the completion of routine personal or health-related care is required on task sheets. If tasks are doctor-ordered, the tasks shall be part of the medication administration records (MARs); and
- r.* Authorizations for the release of information, if any.

69.25(2) The program records relating to a tenant shall be retained for a minimum of three years after the transfer or death of the tenant.

69.25(3) All records shall be protected from loss, damage and unauthorized use.
[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.26(231C) Service plans.

69.26(1) A service plan shall be developed for each tenant based on the evaluations conducted in accordance with subrules 69.22(1) and 69.22(2) and shall be designed to meet the specific service needs of the individual tenant. The service plan shall subsequently be updated at least annually and whenever changes are needed.

69.26(2) Prior to the tenant's signing the occupancy agreement and taking occupancy of a dwelling unit, a preliminary service plan shall be developed by a health care professional or human service professional in consultation with the tenant and, at the tenant's request, with other individuals identified by the tenant, and, if applicable, with the tenant's legal representative. All persons who develop the plan and the tenant or the tenant's legal representative shall sign the plan.

69.26(3) When a tenant needs personal care or health-related care, the service plan shall be updated within 30 days of the tenant's occupancy and as needed with significant change, but not less than annually.

- a.* If a significant change triggers the review and update of the service plan, the updated service plan shall be signed and dated by all parties.

b. If a significant change does not exist, the program may, after nurse review, add minor discretionary changes to the service plan without a comprehensive evaluation and without obtaining signatures on the service plan.

c. If a significant change relates to a recurring or chronic condition, a previous evaluation and service plan of the recurring condition may be utilized without new signatures being obtained. For example, with chronic exacerbation of a urinary tract infection, nurse review is adequate to institute the previously written evaluation and service plan.

d. The service plan updated within 30 days of the tenant's occupancy shall be signed and dated by all parties.

69.26(4) The service plan shall be individualized and shall indicate, at a minimum:

a. The tenant's identified needs and preferences for assistance;

b. Any services and care to be provided pursuant to the occupancy agreement;

c. The service provider(s), if other than the program, including but not limited to providers of hospice care, home health care, occupational therapy, and physical therapy;

d. For tenants who are unable to plan their own activities, including tenants with dementia, a list of person-centered planned and spontaneous activities based on the tenant's abilities and personal interests; and

e. Preferences, if any, of the tenant or the tenant's legal representative for nursing facility care, if the need for nursing facility care presents itself during the assisted living program occupancy.

[ARC 8176B, IAB 9/23/09, effective 1/1/10; ARC 2463C, IAB 3/16/16, effective 4/20/16]

481—69.27(231C) Nurse review.

69.27(1) If a tenant does not receive personal or health-related care, but an observed significant change in the tenant's condition occurs, a nurse review shall be conducted. If a tenant receives personal or health-related care, the program shall provide for a registered nurse:

a. To monitor, at least every 90 days, or after a significant change in the tenant's condition, any tenant who receives program-administered prescription medications for adverse reactions to the medications and to make appropriate interventions or referrals, and to ensure that the prescription medication orders are current and that the prescription medications are administered consistent with such orders; and

b. To ensure that health care professionals' orders are current for tenants who receive health care professional-directed care from the program; and

c. To assess and document the health status of each tenant, to make recommendations and referrals as appropriate, and to monitor progress relating to previous recommendations at least every 90 days and whenever there are changes in the tenant's health status; and

d. To provide the program with written documentation of the nurse review, showing the time, date and signature.

69.27(2) A licensed practical nurse via nurse delegation may complete the tasks required by this rule, except when a tenant experiences a significant change in condition.

NOTE: Refer to Table A at the end of this chapter. If the program does not provide personal or health-related care to a tenant, nurse review is not required.

[ARC 8176B, IAB 9/23/09, effective 1/1/10; ARC 2463C, IAB 3/16/16, effective 4/20/16]

481—69.28(231C) Food service.

69.28(1) The program shall provide or coordinate with other community providers to provide a hot or other appropriate meal(s) at least once a day or shall make arrangements for the availability of meals.

69.28(2) Meals and snacks provided by the program but not prepared on site shall be obtained from or provided by an entity that meets the standards of state and local health laws and ordinances concerning the preparation and serving of food.

69.28(3) Menus shall be planned to provide the following percentage of the daily recommended dietary allowances as established by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences based on the number of meals provided by the program:

a. A minimum of 33⅓ percent if the program provides one meal per day;

- b. A minimum of 66⅔ percent if the program provides two meals per day; and
- c. One hundred percent if the program provides three meals per day.

69.28(4) Therapeutic diets may be provided by a program. If therapeutic diets are provided, they shall be prescribed by a physician, physician assistant, or advanced registered nurse practitioner. A current copy of the Iowa Simplified Diet Manual published by the Iowa Dietetic Association shall be available and used in the planning and serving of therapeutic diets. A licensed dietitian shall be responsible for writing and approving the therapeutic menu and for reviewing procedures for food preparation and service for therapeutic diets.

69.28(5) Personnel who are employed by or contract with the program and who are responsible for food preparation or service, or both food preparation and service, shall have an orientation on sanitation and safe food handling prior to handling food and shall have annual in-service training on food protection.

a. In addition to the requirements above, a minimum of one person directly responsible for food preparation shall have successfully completed a state-approved food protection program by:

- (1) Obtaining certification as a dietary manager; or
- (2) Obtaining certification as a food protection professional; or
- (3) Successfully completing an ANSI-accredited certified food protection manager program meeting the requirements for a food protection program included in the Food Code adopted pursuant to Iowa Code chapter 137F. Another program may be substituted if the program's curriculum includes substantially similar competencies to a program that meets the requirements of the Food Code and the provider of the program files with the department a statement indicating that the program provides substantially similar instruction as it relates to sanitation and safe food handling.

b. If the person is in the process of completing a course or certification listed in paragraph "a," the requirement relating to completion of a state-approved food protection program shall be considered to have been met.

69.28(6) Programs engaged in the preparation and service of meals and snacks shall meet the standards of state and local health laws and ordinances pertaining to the preparation and service of food and shall be licensed pursuant to Iowa Code chapter 137F. The department will not require the program to be licensed as a food establishment if the program limits food activities to the following:

a. All main meals and planned menu items must be prepared offsite and transferred to the program kitchen for service to tenants.

b. Baked goods that do not require temperature control for safety and single-service juice or milk may be stored in the program's kitchen and provided as part of a continental breakfast.

c. Ingredients used for food-related activities with tenants may be stored in the program's kitchen. Tenant activities may include the preparation and cooking of food items in the program's kitchen if the activity occurs on an irregular or sporadic basis and the items prepared are not part of the program's menu.

d. Appropriately trained staff may prepare in the program's kitchen individual quantities of tenant-requested menu-substitution food items that require limited or no preparation, such as peanut butter or cheese sandwiches or a single-service can of soup. The food items necessary to prepare the menu substitution may be stored in the program's kitchen. These food items may not be cooked in the program's kitchen but may be reheated in a microwave. A two- or four-slice toaster may be used for tenant-requested menu-substitution items, but no bare-hand contact is permitted.

e. Tenants may take food items left over from a meal back to their apartments. The program may not store leftovers in the program's kitchen.

f. Warewashing may be done in the program's kitchen as long as the program utilizes a commercial dishwasher and documents daily testing of sanitizer chemical ppm and proper water temperatures. Verification by the department of these practices may be conducted during on-site visits.

69.28(7) Programs may have an on-site dietitian. Programs may secure menus and a dietitian through other methods.

[ARC 8176B, IAB 9/23/09, effective 1/1/10; ARC 1376C, IAB 3/19/14, effective 4/23/14; ARC 2463C, IAB 3/16/16, effective 4/20/16]

481—69.29(231C) Staffing. In addition to the general staffing requirements in rule 481—67.9(231B,231C,231D), the following requirements apply to staffing in programs.

69.29(1) Each tenant shall have access to a 24-hour personal emergency response system that automatically identifies the tenant in distress and can be activated with one touch.

69.29(2) In lieu of providing access to a personal emergency response system, a program serving one or more tenants with cognitive disorder or dementia shall follow a system, program, or written staff procedures that address how the program will respond to the emergency needs of the tenant(s).

69.29(3) The owner or management corporation of the program is responsible for ensuring that all personnel employed by or contracting with the program receive training appropriate to assigned tasks and target population.

69.29(4) A dementia-specific assisted living program shall have one or more staff persons who monitor tenants as indicated in each tenant's service plan. The staff shall be awake and on duty 24 hours a day on site and in the proximate area. The staff shall check on tenants as indicated in the tenants' service plans.

A non-dementia-specific assisted living program shall have one or more staff persons who monitor tenants as indicated in each tenant's service plan. The staff shall be able to respond to a call light or other emergent tenant needs and be in the proximate area 24 hours a day on site. The staff shall check on tenants as indicated in the tenants' service plans.

69.29(5) All programs employing a new program manager after January 1, 2010, shall require the manager within six months of hire to complete an assisted living management class whose curriculum includes at least six hours of training specifically related to Iowa rules and laws on assisted living programs. Managers who have completed a similar training prior to January 1, 2010, shall not be required to complete additional training to meet this requirement.

69.29(6) All programs employing a new delegating nurse after January 1, 2010, shall require the delegating nurse within six months of hire to complete an assisted living manager class or assisted living nursing class whose curriculum includes at least six hours of training specifically related to Iowa rules and laws on assisted living. A minimum of one delegating nurse from each program must complete the training. If there are multiple delegating nurses and only one delegating nurse completes the training, the delegating nurse who completes the training shall train the other delegating nurses in the Iowa rules and laws on assisted living. As of January 1, 2011, all programs shall have a minimum of one delegating nurse who has completed the training described in this subrule.

69.29(7) The program shall notify the department in writing within ten business days of a change in the program's manager.

[ARC 8176B, IAB 9/23/09, effective 1/1/10; ARC 1927C, IAB 4/1/15, effective 5/6/15; ARC 2463C, IAB 3/16/16, effective 4/20/16]

481—69.30(231C) Dementia-specific education for program personnel.

69.30(1) All personnel employed by or contracting with a dementia-specific program shall receive a minimum of eight hours of dementia-specific education and training within 30 days of either employment or the beginning date of the contract, as applicable.

69.30(2) The dementia-specific education or training shall include, at a minimum, the following:

- a. An explanation of Alzheimer's disease and related disorders;
- b. The program's specialized dementia care philosophy and program;
- c. Skills for communicating with persons with dementia;
- d. Skills for communicating with family and friends of persons with dementia;
- e. An explanation of family issues such as role reversal, grief and loss, guilt, relinquishing the care-giving role, and family dynamics;
- f. The importance of planned and spontaneous activities;
- g. Skills in providing assistance with instrumental activities of daily living;
- h. The importance of the service plan and social history information;
- i. Skills in working with challenging tenants;
- j. Techniques for simplifying, cueing, and redirecting;
- k. Staff support and stress reduction; and

l. Medication management and nonpharmacological interventions.

69.30(3) Dementia-specific continuing education.

a. Except as otherwise provided in this subrule, all personnel employed by or contracting with a dementia-specific program shall receive a minimum of two hours of dementia-specific continuing education annually.

b. Direct-contact personnel employed by or contracting with a dementia-specific program or employed by a contracting agency providing staff to a dementia-specific program shall receive a minimum of eight hours of dementia-specific continuing education annually.

c. Contracted personnel who have no contact with tenants (e.g., persons providing lawn maintenance or snow removal) are not required to receive the two hours of training required in paragraph “*a.*”

d. The contracting agency may provide the program with documentation of dementia-specific continuing education that meets the requirements of this subrule.

69.30(4) An employee or contractor who provides documentation of completion of a dementia-specific education or training program within the past 12 months shall be exempt from the education and training requirement of subrule 69.30(1).

69.30(5) Dementia-specific training shall include hands-on training and may include any of the following: classroom instruction, Web-based training, and case studies of tenants in the program.

[ARC 8176B, IAB 9/23/09, effective 1/1/10; ARC 2463C, IAB 3/16/16, effective 4/20/16]

481—69.31(231C) Managed risk policy and managed risk consensus agreements. The program shall have a managed risk policy. The managed risk policy shall be provided to the tenant along with the occupancy agreement. The managed risk policy shall include the following:

69.31(1) An acknowledgment of the shared responsibility for identifying and meeting the needs of the tenant and the process for managing risk and for upholding tenant autonomy when tenant decision making results in poor outcomes for the tenant or others; and

69.31(2) A consensus-based process to address specific risk situations. Program staff and the tenant shall participate in the process. The result of the consensus-based process may be a managed risk consensus agreement. The managed risk consensus agreement shall include the signature of the tenant and the signatures of all others who participated in the process. The managed risk consensus agreement shall be included in the tenant’s file.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.32(231C) Life safety—emergency policies and procedures and structural safety requirements.

69.32(1) The program shall submit to the department and follow written emergency policies and procedures, which shall include the following:

a. An emergency plan, which shall include procedures for natural disasters (identify where the plan is located for easy reference);

b. Fire safety procedures;

c. Other general or personal emergency procedures;

d. Provisions for amending or revising the emergency plan;

e. Provisions for periodic training of all employees;

f. Procedures for fire drills;

g. Regulations regarding smoking;

h. Monitoring and testing of smoke-control systems;

i. Tenant evacuation procedures; and

j. Procedures for reporting and documentation.

69.32(2) An operating alarm system shall be connected to each exit door in a dementia-specific program.

69.32(3) The program shall obtain approval from the state fire marshal division of the department of public safety before the installation of any delayed-egress specialized locking systems.

69.32(4) A program serving a person(s) with cognitive disorder or dementia shall have:

- a. Written procedures regarding alarm systems, if an alarm system is in place.
- b. Written procedures regarding appropriate staff response when a tenant's service plan indicates a risk of elopement or when a tenant exhibits wandering behavior.
- c. Written procedures regarding appropriate staff response if a tenant with cognitive disorder or dementia is missing.

69.32(5) The program's structure and procedures and the facility in which a program is located shall meet the requirements adopted for assisted living programs in administrative rules promulgated by the state fire marshal. Approval of the state fire marshal indicating that the building is in compliance with these requirements is necessary for certification of a program.

69.32(6) The program shall have the means to control the maximum temperature of water at sources accessible by a tenant to prevent scalding and shall control the maximum water temperature for tenants with cognitive impairment or dementia or at a tenant's request.

[ARC 8176B, IAB 9/23/09, effective 1/1/10; ARC 2463C, IAB 3/16/16, effective 4/20/16]

481—69.33(231C) Transportation. When transportation services are provided directly or under contract with the program:

69.33(1) The vehicle shall be accessible and appropriate to the tenants who use it, with consideration for any physical disabilities and impairments.

69.33(2) Every tenant transported shall have a seat in the vehicle, except for a tenant who remains in a wheelchair during transport.

69.33(3) Vehicles shall have adequate seat belts and securing devices for ambulatory and wheelchair-using passengers.

69.33(4) Wheelchairs shall be secured when the vehicle is in motion.

69.33(5) During loading and unloading of a tenant, the driver shall be in the proximate area of the tenants in a vehicle.

69.33(6) The driver shall have a valid and appropriate Iowa driver's license or commercial driver's license as required by law for the vehicle being utilized for transport. If the driver is licensed in another state, the license shall be valid and appropriate for the vehicle being utilized for transport. The driver shall meet any state or federal requirements for licensure or certification for the vehicle operated.

69.33(7) Each vehicle shall have a first-aid kit, fire extinguisher, safety triangles and a device for two-way communication.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.34(231C) Activities.

69.34(1) The program shall provide appropriate activities for each tenant. Activities shall reflect individual differences in age, health status, sensory deficits, lifestyle, ethnic and cultural beliefs, religious beliefs, values, experiences, needs, interests, abilities and skills by providing opportunities for a variety of types and levels of involvement.

69.34(2) Activities shall be planned to support the tenant's service plan and shall be consistent with the program statement and occupancy policies.

69.34(3) A written schedule of activities shall be developed at least monthly and made available to tenants and their legal representatives.

69.34(4) Tenants shall be given the opportunity to choose their levels of participation in all activities offered in the program.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.35(231C) Structural requirements.

69.35(1) General requirements.

- a. The structure of the program shall be designed and operated to meet the needs of the tenants.
- b. The buildings and grounds shall be well-maintained, clean, safe and sanitary.
- c. Programs shall have private dwelling units with a single-action, lockable entrance door.

d. A program serving persons with cognitive impairment or dementia, whether in a general or dementia-specific setting, shall have the means to disable or remove the lock on an entrance door and shall disable or remove the lock if its presence presents a danger to the health and safety of the tenant.

e. The structure in which a program is housed shall comply with the administrative rules promulgated by the state fire marshal.

f. Programs may have individual cooking facilities within the private dwelling units. Any program serving persons with cognitive impairment or dementia, whether in a general or dementia-specific setting, shall have the means to disable or easily remove appliances and shall disable or remove them if their presence presents a danger to the health and safety of the tenant or others.

69.35(2) *Programs certified prior to July 4, 2001.* Facilities for programs certified prior to July 4, 2001, shall meet the following requirements:

a. Each dwelling unit shall have at least one room that shall have not less than 120 square feet of floor area. Other habitable rooms shall have an area of not less than 70 square feet.

b. Each dwelling unit shall have not less than 190 square feet of floor area, excluding bathrooms.

c. A dwelling unit used for double occupancy shall have not less than 290 square feet of floor area, excluding bathrooms.

d. The program shall have a minimum of 15 square feet of common area per tenant.

69.35(3) *New construction built on or after July 4, 2001.* Programs operated in new construction built on or after July 4, 2001, shall meet the following requirements:

a. Each dwelling unit shall have at least one room that shall have not less than 120 square feet of floor area. Other habitable rooms shall have an area of not less than 70 square feet.

b. Each dwelling unit used for single occupancy shall have a total square footage of not less than 240 square feet of floor area, excluding bathrooms and door swing.

c. A dwelling unit used for double occupancy shall have a total square footage of not less than 340 square feet of floor area, excluding bathrooms and door swing.

d. Each dwelling unit shall contain a bathroom, including but not limited to a toilet, sink and bathing facilities. A program serving persons with cognitive impairment or dementia, whether in a general or dementia-specific setting, shall have the means to disable or remove the sink or bathing facility water control and shall disable or remove the water control if its presence presents a danger to the health and safety of the tenant.

e. Self-closing doors are not required for individual dwelling units, whether in a general or dementia-specific setting, unless the authority with jurisdiction determines that the level of hazard has increased to require the installation of closure hardware (for example, presence of a stove, range or oven).

69.35(4) *Structure being converted to or remodeled for use by a program on or after July 4, 2001.* A program operating in a structure that was converted or remodeled for use for a program on or after July 4, 2001, shall meet the following requirements:

a. Each dwelling unit shall have at least one room that has not less than 120 square feet of floor area. Other habitable rooms shall have an area of not less than 70 square feet.

b. Each dwelling unit used for single occupancy shall have a total square footage of not less than 190 square feet of floor area, excluding bathrooms and door swing.

c. A dwelling unit used for double occupancy shall have a total square footage of not less than 290 square feet of floor area, excluding bathrooms and door swing.

d. Each dwelling unit shall have a bathroom, including but not limited to a toilet, sink and bathing facility.

[ARC 8176B, IAB 9/23/09, effective 1/1/10; ARC 2463C, IAB 3/16/16, effective 4/20/16]

481—69.36(231C) Dwelling units in dementia-specific programs. Dementia-specific programs are exempt from the requirements in subrules 69.35(2) to 69.35(4) as follows:

69.36(1) For a program built in a family or neighborhood design:

a. Each dwelling unit used for single occupancy shall have a total square footage of not less than 150 square feet of floor area, excluding a bathroom; and

b. Each dwelling unit used for double occupancy shall have a total square footage of not less than 250 square feet of floor area, excluding a bathroom.

69.36(2) Dementia-specific programs may choose not to provide bathing facilities in the dwelling units.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.37(231C) Landlord and tenant Act. Iowa Code chapter 562A, the uniform residential landlord and tenant Act, shall apply to programs under this chapter.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.38(83GA,SF203) Identification of veteran's benefit eligibility.

69.38(1) Within 30 days of a tenant's admission to an assisted living program that receives reimbursement through the medical assistance program under Iowa Code chapter 249A, the program shall ask the tenant or the tenant's personal representative whether the tenant is a veteran or whether the tenant is the spouse, widow, or dependent of a veteran and shall document the response.

69.38(2) If the program determines that the tenant may be a veteran or the spouse, widow, or dependent of a veteran, the program shall report the tenant's name along with the name of the veteran, if applicable, as well as the name of the contact person for this information, to the Iowa department of veterans affairs. When appropriate, the program may also report such information to the Iowa department of human services.

69.38(3) If a tenant is eligible for benefits through the U.S. Department of Veterans Affairs or other third-party payor, the program first shall seek reimbursement from the identified payor source before seeking reimbursement from the medical assistance program established under Iowa Code chapter 249A.

[ARC 8176B, IAB 9/23/09, effective 1/1/10]

481—69.39(231C) Respite care services. "Respite care services" means an organized program of temporary supportive care provided for 24 hours or more to a person in order to relieve the usual caregiver of the person from providing continual care to the person. "Respite care individual" means an individual receiving respite care services. An assisted living program which chooses to provide respite care services must meet the following requirements related to respite care services and must be certified as an assisted living program.

69.39(1) Length of stay. Respite care services shall be provided for no more than 30 consecutive days and for a total of no more than 60 days in a consecutive 12-month period. The 12-month period begins on the first day of the respite care individual's stay in the program.

69.39(2) No separate certificate. An assisted living program that chooses to provide respite care services is not required to obtain a separate certificate or pay a certification fee.

69.39(3) Assessment. The program nurse shall conduct an assessment of the respite care individual prior to the respite care individual's stay. The assessment shall be documented and shall include, at a minimum:

- a. Safety and supervision needs;
- b. Medical needs;
- c. Dietary needs; and
- d. Bowel and bladder function.

69.39(4) Written direction to staff. The program nurse shall document the care needs of the respite care individual based on the assessment conducted pursuant to subrule 69.39(3) and provide the documentation to staff.

69.39(5) Involuntary termination of respite care services. The program may terminate the respite care services for a respite care individual. Rule 481—69.24(231C) shall not apply. The program shall make proper arrangements for the welfare of the respite care individual prior to involuntary termination of respite care services, including notification of the respite care individual's family or legal representative.

69.39(6) Contract. The program shall have a contract with each respite care individual. The contract shall, at a minimum, include the following:

- a.* The time period during which the individual will be considered to be receiving respite care services, not to exceed 30 consecutive days.
- b.* A description of all fees, charges, and rates for respite care services, and any additional and optional services and their related costs.
- c.* A statement that respite care services may be involuntarily terminated. Rule 481—69.24(231C) shall not apply.
- d.* Identification of the party responsible for payment of fees and identification of the respite care individual's legal representative, if any.
- e.* Identification of emergency contacts, including but not limited to the respite care individual's family member(s) and physician.
- f.* A statement that all respite care individual information shall be maintained in a confidential manner to the extent required under state and federal law.
- g.* The refund policy, if applicable.
- h.* A statement regarding billing and payment procedures.

69.39(7) *Admission to program.*

- a.* A respite care individual shall not be considered an admission to the program.
- b.* A respite care individual shall be included in the program's census.
- c.* The program shall not enter into multiple 30-day contracts with a respite care individual in order to lengthen the respite care individual's stay in the program.
- d.* If a respite care individual remains in the program beyond 30 consecutive days and is eligible for admission, the department shall consider the individual a tenant in the program. The program shall follow all requirements for admission to the program.

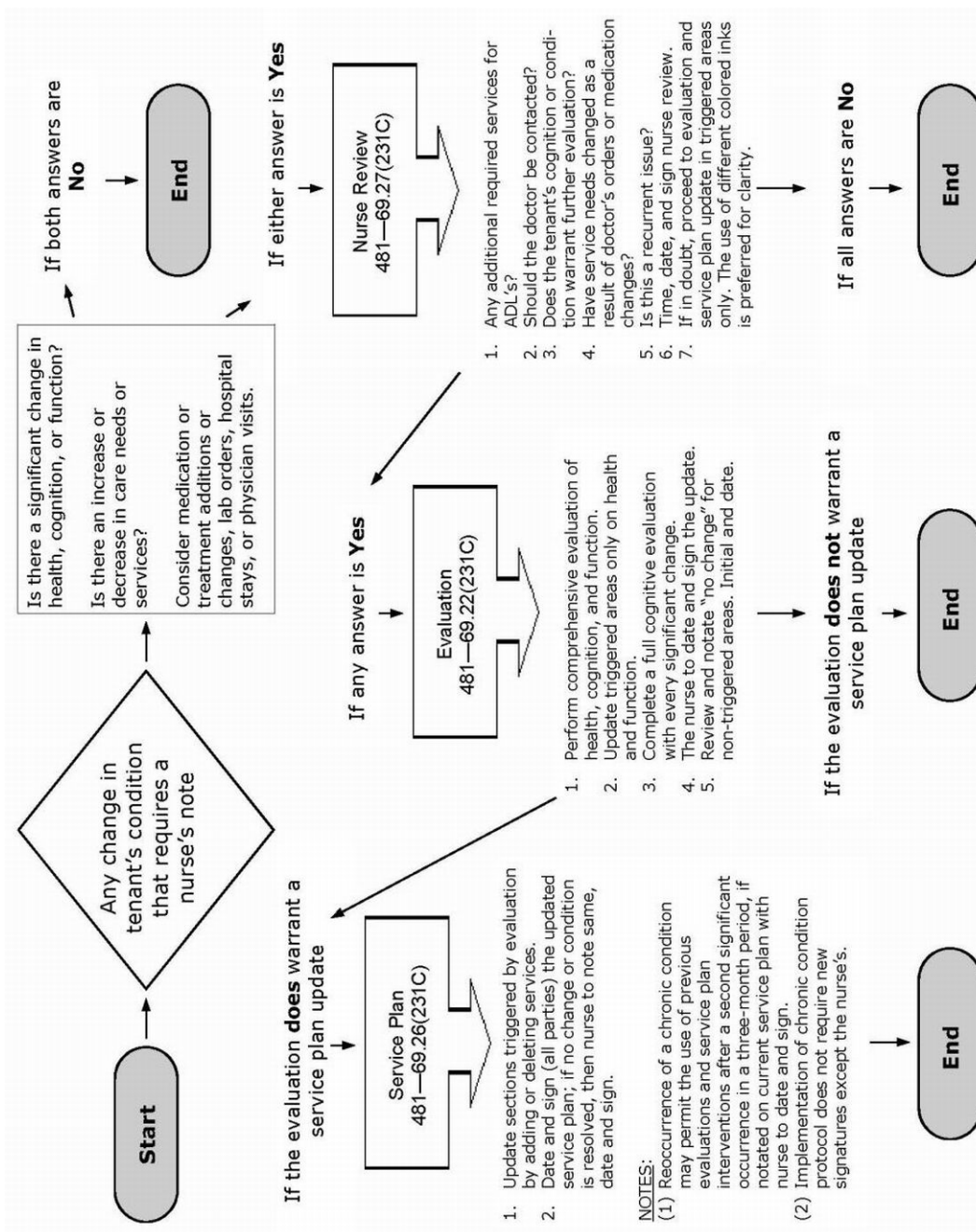
69.39(8) *Level of care criteria.* Respite care individuals must meet the criteria found in subrule 69.23(1) for admission and retention of tenants. Respite care services shall not be provided by an assisted living program to persons requiring a level of care which is higher than the level of care the program is certified to provide.

69.39(9) *Accessibility by the department.* The department shall have the same access to respite care services records as provided in 481—subrule 67.10(2).

[ARC 1667C, IAB 10/15/14, effective 11/19/14]

These rules are intended to implement Iowa Code chapter 231C.

Table A



[Filed ARC 8176B (Notice ARC 7878B, IAB 6/17/09), IAB 9/23/09, effective 1/1/10]

[Filed ARC 1376C (Notice ARC 1291C, IAB 1/22/14), IAB 3/19/14, effective 4/23/14]

[Filed ARC 1667C (Notice ARC 1511C, IAB 6/25/14), IAB 10/15/14, effective 11/19/14]

[Filed ARC 1927C (Notice ARC 1860C, IAB 2/4/15), IAB 4/1/15, effective 5/6/15]

[Filed ARC 2463C (Notice ARC 2200C, IAB 10/14/15), IAB 3/16/16, effective 4/20/16]

CHAPTER 70 ADULT DAY SERVICES

481—70.1(231D) Definitions. In addition to the definitions in 481—Chapter 67 and Iowa Code chapter 231D, the following definitions apply.

“Accredited” means that the program has received accreditation from an accreditation entity recognized in subrule 70.14(1).

“Adult day services” or *“adult day services program”* or *“program”* means an organized program providing a variety of health-related care, social services, and other related support services for 16 hours or less in a 24-hour period to two or more persons with a functional impairment on a regularly scheduled, contractual basis.

“Applicable requirements” means Iowa Code chapter 231D, this chapter, and 481—Chapter 67 and includes any other applicable administrative rules and provisions of the Iowa Code.

“CARF” means the Commission on Accreditation of Rehabilitation Facilities.

“Change of ownership” means the purchase, transfer, assignment or lease of a certified adult day services program and includes a change in the management company responsible for the day-to-day operation of the program, if the management company is ultimately responsible for any enforcement action taken by the department.

“Cognitive disorder” means a disorder characterized by cognitive dysfunction presumed to be the result of illness that does not meet criteria for dementia, delirium, or amnesic disorder.

“Contractual agreement” means a written agreement between the program and the participant or legal representative.

“Dementia-specific adult day services program” means an adult day services program certified under this chapter that:

1. Serves fewer than 55 participants and has 5 or more participants who have dementia between Stages 4 and 7 on the Global Deterioration Scale, or
2. Serves 55 or more participants and 10 percent or more of the participants have dementia between Stages 4 and 7 on the Global Deterioration Scale, or
3. Holds itself out as providing specialized care for persons with dementia, such as Alzheimer’s disease, in a dedicated setting.

“Functional impairment” means a psychological, cognitive, or physical impairment that creates an inability to perform personal and instrumental activities of daily living and associated tasks and that necessitates some form of supervision or assistance or both.

“Maximal assistance with activities of daily living” means routine total dependence on staff for the performance of a minimum of four activities of daily living for a period that exceeds 21 days.

“Medically unstable” means that a participant has a condition or conditions:

1. Indicating physiological frailty as determined by the program’s staff in consultation with a physician or physician extender;
2. Resulting in three or more significant hospitalizations within a consecutive three-month period for more than observation; and
3. Requiring frequent supervision of the participant for more than 21 days by a registered nurse.

For example, a participant who has a condition such as congestive heart failure which results in three or more significant hospitalizations during a quarter and which requires that the participant receive frequent supervision may be considered medically unstable.

“Nonaccredited” means that the program has been certified under the provisions of this chapter but has not received accreditation from the accreditation entity recognized in subrule 70.14(1).

“Participant” means an individual who is the recipient of services provided by an adult day services program.

“Participant’s legal representative” means a person appointed by the court to act on behalf of a participant, or a person acting pursuant to a power of attorney.

“Unmanageable incontinence” means a condition that requires staff provision of total care for an incontinent participant who lacks the ability to assist in bladder or bowel continence care.

“Unmanageable verbal abuse” means repeated verbalizations against participants or staff that persist despite all interventions and negatively affect the program. “Unmanageable verbal abuse” includes but is not limited to threats, frequent use of profane language, or unwelcome sexually oriented remarks.

“Visiting day(s)” means up to 16 hours in a two-day period during which a person may visit a program prior to admission for the purpose of assessing eligibility for the program and personal satisfaction.

[ARC 8177B, IAB 9/23/09, effective 1/1/10; ARC 1927C, IAB 4/1/15, effective 5/6/15]

481—70.2(231D) Program certification. A program may obtain certification by meeting all applicable requirements. In addition, a program may be voluntarily accredited by a recognized accreditation entity. For the purpose of these rules, certification is equivalent to licensure.

70.2(1) Posting requirements. A program’s current certificate shall be visibly displayed within the designated operation area of the program. In addition, the latest monitoring report, state fire marshal report, and food establishment inspections report issued pursuant to Iowa Code chapter 137F shall be made available to the public by the program upon request.

70.2(2) Dementia-specific programs and door alarms. If a program meets the definition of a dementia-specific adult day services program during two sequential certification monitorings, the program shall meet all requirements for a dementia-specific program, including the requirements set forth in rule 481—70.30(231D) and in subrule 70.32(2), which includes the requirements relating to door alarms.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.3(231D) Certification of a nonaccredited program—application process.

70.3(1) The applicant shall complete an application packet obtained from the department. Application materials may be obtained from the health facilities division Web site at https://dia-hfd.iowa.gov/DIA_HFD/Home.do; by mail from the Department of Inspections and Appeals, Adult Services Bureau, Lucas State Office Building, Third Floor, 321 E. 12th Street, Des Moines, Iowa 50319-0083; or by telephone at (515)281-6325.

70.3(2) The applicant shall submit one copy of the completed application and all supporting documentation to the department at the above address at least 90 calendar days prior to the expected date of beginning operation.

70.3(3) The appropriate fee as stated in Iowa Code section 231D.4 shall accompany each application and be payable by check or money order to the Department of Inspections and Appeals. Fees are nonrefundable.

70.3(4) The department shall consider the application when all supporting documents and fees are received.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.4(231D) Nonaccredited program—application content. An application for certification or recertification of a nonaccredited program shall include the following:

70.4(1) A list that includes the names, addresses, and percentage of stock, shares, partnership or other equity interest of all officers, members of the board of directors and trustees, as well as stockholders, partners or any individuals who have greater than a 10 percent equity interest in each of the following, as applicable:

- a. The real estate owner or lessor;
- b. The lessee; and
- c. The management company responsible for the day-to-day operation of the program.

The program shall notify the department of any changes in the list no later than ten working days after the effective date of the change.

70.4(2) A statement disclosing whether the individuals listed in subrule 70.4(1) have been convicted of a felony or an aggravated or serious misdemeanor or found to be in violation of the child abuse or dependent adult abuse laws of any state.

70.4(3) A statement disclosing whether any of the individuals listed in subrule 70.4(1) have or have had an ownership interest in an adult day services program, assisted living program, elder group home, home health agency, licensed health care facility as defined in Iowa Code section 135C.1, or licensed hospital as defined in Iowa Code section 135B.1, which has been closed in any state due to removal of program, agency, or facility licensure or certification or due to involuntary termination from participation in either the Medicaid or Medicare program; or have been found to have failed to provide adequate protection or services to prevent abuse or neglect of residents, patients, tenants or participants.

70.4(4) The policy and procedure for evaluation of each participant. A copy of the evaluation tool or tools to be used to identify the functional, cognitive and health status of each participant shall be included.

70.4(5) The policy and procedure for service plans.

70.4(6) The policy and procedure for addressing medication needs of participants.

70.4(7) The policy and procedure for accidents and emergency response.

70.4(8) The policies and procedures for food service, including those relating to staffing, nutrition, menu planning, therapeutic diets, and food preparation, service and storage.

70.4(9) The policy and procedure for activities.

70.4(10) The policy and procedure for transportation.

70.4(11) The policy and procedure for staffing and training.

70.4(12) The policy and procedure for emergencies, including natural disasters. The policy and procedure shall include an evacuation plan and procedures for notifying legal representatives in emergency situations as applicable.

70.4(13) The policy and procedure for managing risk and upholding participant autonomy when participant decision making results in poor outcomes for the participant or others.

70.4(14) The policy and procedure for reporting incidents including dependent adult abuse as required in rule 481—67.2(231B,231C,231D).

70.4(15) The policy and procedure related to life safety requirements for a dementia-specific program as required by subrule 70.32(2).

70.4(16) The participant contractual agreement and all attachments.

70.4(17) If the program contracts for personal care or health-related care services from a certified home health agency, a mental health center or a licensed health care facility, a copy of that entity's current license or certification.

70.4(18) A copy of the state license for the entity that provides food service, whether the entity is the program or an outside entity or a combination of both.

70.4(19) The fee set forth in Iowa Code section 231D.4.

[ARC 8177B, IAB 9/23/09, effective 1/1/10; ARC 1927C, IAB 4/1/15, effective 5/6/15]

481—70.5(231D) Initial certification process for a nonaccredited program.

70.5(1) Upon receipt of all completed documentation, including state fire marshal approval and structural and evacuation review approval, the department shall determine whether the proposed program meets applicable requirements.

70.5(2) If, based upon the review of the complete application, including all required supporting documents, the department determines the proposed program meets the requirements for certification, a provisional certification shall be issued to the program to begin operation and accept participants.

70.5(3) Within 180 calendar days following issuance of provisional certification, the department shall conduct a monitoring to determine the program's compliance with applicable requirements.

70.5(4) If a regulatory insufficiency is identified as a result of the monitoring, the process in rule 481—67.10(17A,231B,231C,231D) shall be followed.

70.5(5) The department shall make a final certification decision based on the results of the monitoring and review of an acceptable plan of correction.

70.5(6) The department shall notify the program of a final certification decision within 10 working days following the finalization of the monitoring report or receipt of an acceptable plan of correction, whichever is applicable.

70.5(7) If the decision is to continue certification, the department shall issue a full two-year certification effective from the date of the original provisional certification.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.6(231D) Expiration of the certification of a nonaccredited program.

70.6(1) Unless conditionally issued, suspended or revoked, certification of a program shall expire at the end of the time period specified on the certificate.

70.6(2) The department shall send recertification application materials to each program at least 120 calendar days prior to expiration of the program's certification.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.7(231D) Recertification process for a nonaccredited program. To obtain recertification, a program shall:

70.7(1) Submit one copy of the completed application, including the information required in rule 481—70.4(231D), associated documentation, and the recertification fee as listed in Iowa Code section 231D.4 to the department at the address stated in subrule 70.3(1) at least 90 calendar days prior to the expiration of the program's certification. The program need not submit policies and procedures that have been previously submitted to the department and remain unchanged. The program shall provide a list of the policies and procedures that have been previously submitted and are not being resubmitted.

70.7(2) Submit additional documentation that each of the following has been inspected by a qualified professional and found to be maintained in conformance with the manufacturer's recommendations and nationally recognized standards: heating system, cooling system, water heater, electrical system, plumbing, sewage system, artificial lighting, and ventilation system; and, if located on site, garbage disposal, kitchen appliances, washing machines and dryers, and elevators.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.8(231D) Notification of recertification for a nonaccredited program.

70.8(1) The department shall review the application and associated documentation and fees. If the application is incomplete, the department shall contact the program to request the additional information. After all finalized documentation is received, including state fire marshal approval, the department shall determine the program's compliance with applicable requirements.

70.8(2) The department shall conduct a monitoring of the program between 60 and 90 days prior to expiration of the program's certification.

70.8(3) If a regulatory insufficiency is identified as a result of the monitoring, the process in rule 481—67.10(17A,231B,231C,231D) shall be followed.

70.8(4) If no regulatory insufficiency is identified as a result of the monitoring, the department shall issue a report of the findings with the final recertification decision.

70.8(5) If the decision is to recertify, the department shall issue the program a two-year certification effective from the date of the expiration of the previous certification.

70.8(6) If the decision is to deny recertification, the department shall issue a notice of denial and provide the program the opportunity for a hearing pursuant to rule 481—67.13(17A,231B,231C,231D).

70.8(7) If the department is unable to recertify a program through no fault of the program, the department shall issue to the program a time-limited extension of certification of no longer than one year.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.9(231D) Certification or recertification of an accredited program—application process.

70.9(1) An applicant for certification or recertification of a program accredited by a recognized accrediting entity shall:

a. Submit a completed application packet obtained from the department. Application materials may be obtained from the health facilities division Web site at https://dia-hfd.iowa.gov/DIA_HFD/Home.do; by mail from the Department of Inspections and

Appeals, Adult Services Bureau, Lucas State Office Building, Third Floor, 321 E. 12th Street, Des Moines, Iowa 50319-0083; or by telephone at (515)281-6325.

b. Submit a copy of the current accreditation outcome from the recognized accrediting entity.

c. Apply for certification or recertification within 90 calendar days following verification of compliance with the requirements of the state fire marshal division of the department of public safety pursuant to this chapter.

d. Submit the appropriate fees as set forth in Iowa Code section 231D.4.

70.9(2) The department shall not consider an application until it is complete and includes all supporting documentation and the appropriate fees.

[ARC 8177B, IAB 9/23/09, effective 1/1/10; ARC 2463C, IAB 3/16/16, effective 4/20/16]

481—70.10(231D) Certification or recertification of an accredited program—application content. An application for certification or recertification of an accredited program shall include the following:

70.10(1) A list that includes the names, addresses and percentage of stock, shares, partnership or other equity interest of all officers, members of the board of directors, and trustees, as well as stockholders, partners or any individuals who have greater than a 10 percent equity interest in each of the following, as applicable:

a. The real estate owner or lessor;

b. The lessee; and

c. The management company responsible for the day-to-day operation of the program.

The program shall notify the department of any changes in the list no later than ten working days after the effective date of the change.

70.10(2) A statement disclosing whether the individuals listed in subrule 70.10(1) have been convicted of a felony or an aggravated or serious misdemeanor or found to be in violation of the child abuse or dependent adult abuse laws of any state.

70.10(3) A statement disclosing whether any of the individuals listed in subrule 70.10(1) have or have had an ownership interest in an adult day services program, assisted living program, elder group home, home health agency, licensed health care facility as defined under Iowa Code section 135C.1, or licensed hospital as defined under Iowa Code section 135B.1, which has been closed in any state due to removal of program, agency, or facility licensure or certification or due to involuntary termination from participation in either the Medicaid or Medicare program; or have been found to have failed to provide adequate protection or services to prevent abuse or neglect of residents, patients, tenants or participants.

70.10(4) A copy of the current accreditation outcome from the recognized accrediting entity.

[ARC 8177B, IAB 9/23/09, effective 1/1/10; ARC 1927C, IAB 4/1/15, effective 5/6/15]

481—70.11(231D) Initial certification process for an accredited program.

70.11(1) Within 20 working days of receiving all finalized documentation, including state fire marshal approval, the department shall determine and notify the accredited program whether the accredited program meets applicable requirements and whether certification will be issued.

70.11(2) If the decision is to certify, a certification shall be issued for the term of the accreditation not to exceed three years, unless the certification is conditionally issued, suspended or revoked by either the department or the recognized accrediting entity.

70.11(3) If the decision is to deny certification, the department shall provide the applicant an opportunity for hearing in accordance with rule 481—67.13(17A,231B,231C,231D).

70.11(4) Unless conditionally issued, suspended or revoked, certification for a program shall expire at the end of the time period specified on the certificate.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.12(231D) Recertification process for an accredited program.

70.12(1) The department shall send recertification application materials to each program at least 120 calendar days prior to expiration of the program's certification.

70.12(2) To obtain recertification, an accredited program shall submit one copy of the completed application, associated documentation, and the administrative fee as stated in Iowa Code section 231D.4 to the department at the address stated in subrule 70.9(1) at least 90 calendar days prior to the expiration of the program's certification.

70.12(3) Within 20 working days of receiving all finalized documentation, including state fire marshal approval, the department shall determine the program's compliance with applicable requirements and make a recertification decision.

70.12(4) The department shall notify the accredited program within 10 working days of the final recertification decision.

a. If the decision is to recertify, a full certification shall be issued for the term of the accreditation not to exceed three years, unless the certification is conditionally issued, suspended or revoked by either the department or the recognized accrediting entity.

b. If the decision is to deny recertification, the department shall provide the applicant an opportunity for hearing in accordance with rule 481—67.13(17A,231B,231C,231D).

70.12(5) If the department is unable to recertify a program through no fault of the program, the department shall issue to the program a time-limited extension of certification of no longer than one year.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.13(231D) Listing of all certified programs. The department shall maintain a list of all certified programs, which is available online at https://dia-hfd.iowa.gov/DIA_HFD/Home.do, under the "Entities Book" tab.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.14(231D) Recognized accrediting entity.

70.14(1) The department designates CARF as a recognized accrediting entity for programs.

70.14(2) To apply for designation by the department as a recognized accrediting entity for programs, an accrediting entity shall submit a letter of request, and its standards shall, at minimum, meet the applicable requirements for programs.

70.14(3) The designation shall remain in effect for as long as the accreditation standards continue to meet, at minimum, the applicable requirements for programs.

70.14(4) An accrediting entity shall provide annually to the department, at no cost, a current edition of the applicable standards manual and survey preparation guide, and training thereon, within 120 working days after the publications are released.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.15(231D) Requirements for an accredited program. Each accredited program that is certified by the department shall:

70.15(1) Provide the department a copy of all survey reports including outcomes, quality improvement plans and annual conformance to quality reports generated or received, as applicable, within ten working days of receipt of the reports.

70.15(2) Notify the department by the most expeditious means possible of all credible reports of alleged improper or inappropriate conduct or conditions within the program and any actions taken by the accrediting entity with respect thereto.

70.15(3) Notify the department immediately of the expiration, suspension, revocation or other loss of the program's accreditation.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.16(231D) Maintenance of program accreditation.

70.16(1) An accredited program shall continue to be recognized for certification by the department if both of the following requirements are met:

a. The program complies with the requirements outlined in rule 481—70.15(231D).

b. The program maintains its voluntary accreditation status for the duration of the time-limited certification period.

70.16(2) A program that does not maintain its voluntary accreditation status must become certified by the department prior to any lapse in accreditation.

70.16(3) A program that does not maintain its voluntary accreditation status and is not certified by the department prior to any lapse in voluntary accreditation shall cease operation as a program.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.17(231D) Change of ownership—notification to the department.

70.17(1) Certification, unless conditionally issued, suspended or revoked, may be transferable. If the program's certification has been conditionally issued, the department must approve a change of ownership prior to the transfer of the certification.

70.17(2) In order to transfer certification, the applicant must:

a. Meet the requirements of the rules, regulations and standards contained in Iowa Code chapter 231D and 481—Chapter 67 and this chapter; and

b. At least 30 days prior to the change of ownership of the program, make application on forms provided by the department.

70.17(3) The department may conduct a monitoring within 90 days following a change in the program's ownership to ensure that the program complies with applicable requirements. If a regulatory insufficiency is found, the department shall take any necessary enforcement action authorized by applicable requirements.

[ARC 1927C, IAB 4/1/15, effective 5/6/15]

481—70.18(231D) Plan reviews of a building for a new program.

70.18(1) Before a building is constructed or remodeled for use in a new program, the state fire marshal division of the department of public safety shall review the blueprints for compliance with requirements pursuant to this chapter. Construction or remodeling includes new construction, remodeling of any part of an existing building, addition of a new wing or floor to an existing building, or conversion of an existing building.

70.18(2) A program applicant shall submit blueprints wet-sealed by an Iowa-licensed architect or Iowa-licensed engineer and the blueprint plan review fee as stated in Iowa Code section 231D.4 to the Department of Public Safety, State Fire Marshal Division, 215 E. 7th Street, Third Floor, Des Moines, Iowa 50319.

70.18(3) Failure to submit the blueprint plan review fee with the blueprints shall result in delay of the blueprint plan review until the fee is received.

70.18(4) The state fire marshal division of the department of public safety shall review the blueprints and notify the Iowa-licensed architect or Iowa-licensed engineer in writing regarding the status of compliance with requirements.

70.18(5) The Iowa-licensed architect or Iowa-licensed engineer shall respond to the state fire marshal division of the department of public safety to state how any noncompliance will be resolved.

70.18(6) Upon final notification by the state fire marshal division of the department of public safety that the blueprints meet structural and life safety requirements, construction or remodeling of the building may commence.

70.18(7) The state fire marshal division of the department of public safety shall schedule an on-site visit of the building site with the contractor, or Iowa-licensed architect or Iowa-licensed engineer, during the construction or remodeling process to ensure compliance with the approved blueprints. Any noncompliance must be resolved prior to approval for certification.

[ARC 8177B, IAB 9/23/09, effective 1/1/10; ARC 2463C, IAB 3/16/16, effective 4/20/16]

481—70.19(231D) Plan review prior to the remodeling of a building for a certified program.

70.19(1) Before a building for a certified program is remodeled, the state fire marshal division of the department of public safety shall review the blueprints for compliance with requirements set forth in

rule 481—70.35(231D). Remodeling includes modification of any part of an existing building, addition of a new wing or floor to an existing building, or conversion of an existing building.

70.19(2) A certified program shall submit blueprints wet-sealed by an Iowa-licensed architect or Iowa-licensed engineer and the blueprint plan review fee as stated in Iowa Code section 231D.4 to the Department of Public Safety, State Fire Marshal Division, 215 E. 7th Street, Third Floor, Des Moines, Iowa 50319.

70.19(3) Failure to submit the blueprint plan review fee with the blueprints shall result in delay of the blueprint plan review until the fee is received.

70.19(4) The state fire marshal division of the department of public safety shall review the blueprints within 20 working days of receipt and immediately notify the Iowa-licensed architect or Iowa-licensed engineer in writing regarding the status of compliance with requirements.

70.19(5) The Iowa-licensed architect or Iowa-licensed engineer shall respond to the state fire marshal division of the department of public safety in 20 working days to state how any noncompliance will be resolved.

70.19(6) Upon final notification by the state fire marshal division of the department of public safety that the blueprints meet structural and life safety requirements, remodeling of the building may commence.

70.19(7) The state fire marshal division of the department of public safety shall schedule an on-site visit of the building with the contractor, or Iowa-licensed architect or Iowa-licensed engineer, during the remodeling process to ensure compliance with the approved blueprints. Any noncompliance must be resolved prior to approval for continued certification or recertification of the program.

[ARC 8177B, IAB 9/23/09, effective 1/1/10; ARC 2463C, IAB 3/16/16, effective 4/20/16]

481—70.20(231D) Cessation of program operation.

70.20(1) If a certified program ceases operation, which includes seeking decertification, at any time prior to expiration of the program's certification, the program shall submit the certificate to the department. The program shall provide, at least 90 days in advance of cessation, which includes seeking decertification, unless there is some type of emergency, written notification to the department of the date on which the program will cease operation, which includes seeking decertification.

70.20(2) If a certified program plans to cease operation, which includes seeking decertification, at the time the program's certification expires, the program shall provide written notice of this fact to the department at least 90 days prior to expiration of the certification.

70.20(3) At the time a program decides to cease operation, which includes seeking decertification, the program shall submit a plan to the department and make arrangements for the safe and orderly discharge or transition of all participants within the 90-day period specified by subrule 70.20(2).

70.20(4) The department may conduct a monitoring during the 90-day period to ensure the safety of participants during the discharge process or transition process.

70.20(5) The department may conduct an on-site visit to verify that the program has ceased operation as a certified program in accordance with the notice provided by the program.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.21(231D) Contractual agreement.

70.21(1) The contractual agreement shall be in 12-point type or larger, shall be written in plain language using commonly understood terms and shall be easy for the participant or the participant's legal representative to understand.

70.21(2) In addition to the requirements of Iowa Code section 231D.17, the written contractual agreement shall include, but not be limited to, the following information in the body of the agreement or in the supporting documents and attachments:

- a. The telephone number for filing a complaint with the department.
- b. The telephone number for reporting dependent adult abuse.
- c. A copy of the program's statement on participants' rights.
- d. A statement that the program will notify the participant at least 90 days in advance of any planned program cessation, which includes voluntary decertification, except in cases of emergency.

e. A copy of the program's admission and discharge criteria.

70.21(3) The contractual agreement shall be reviewed and updated as necessary to reflect any change in services or financial arrangements.

70.21(4) A copy of the contractual agreement shall be provided to the participant or the participant's legal representative, if any, and a copy shall be kept by the program.

70.21(5) A copy of the most current contractual agreement shall be made available to the general public upon request. The basic marketing material shall include a statement that a copy of the contractual agreement is available to all persons upon request.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.22(231D) Evaluation of participant.

70.22(1) *Evaluation prior to participation.* A program shall evaluate each prospective participant's functional, cognitive and health status prior to the participant's signing the contractual agreement and participating in the program, with the exception of visiting day(s), to determine the participant's eligibility for the program, including whether the services needed are available. The cognitive evaluation shall be appropriate to the population served. When the cognitive evaluation indicates moderate cognitive decline and risk, the Global Deterioration Scale shall be used at all subsequent intervals, if applicable. If the participant subsequently returns to the participant's mildly cognitively impaired state, the program may discontinue the GDS and revert to a scored cognitive screening tool. The evaluation shall be conducted by a health care professional or human service professional.

70.22(2) *Evaluation within 30 days of participation and with significant change.* A program shall evaluate each participant's functional, cognitive and health status within 30 days of the participant's beginning participation in the program. A program shall also evaluate each participant's functional, cognitive and health status as needed with significant change, but not less than annually, to determine the participant's continued eligibility for the program and to determine any changes to services needed. The evaluation shall be conducted by a health care professional or human service professional. A licensed practical nurse may complete the evaluation via nurse delegation when the participant has not exhibited a significant change.

70.22(3) *Requirements for visiting day(s).* Evaluation of the participant is not required during visiting day(s), but the program shall provide the participant or the participant's legal representative with a written explanation of the expectations for the visiting day(s).

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.23(231D) Criteria for admission and retention of participants.

70.23(1) *Persons who may not be admitted or retained.* A program shall not knowingly admit or retain a participant who:

- a. Requires routine, three-person assistance with standing, transfer or evacuation; or
- b. Is dangerous to self or other participants or staff, including but not limited to a participant who:
 - (1) Despite intervention chronically elopes, is sexually or physically aggressive or abusive, or displays unmanageable verbal abuse; or
 - (2) Is in an acute stage of alcoholism, drug addiction, or mental illness; or
- c. Is under the age of 18.

70.23(2) *Disclosure of additional participation and discharge criteria.* A program may have additional participation or discharge criteria if the criteria are disclosed in the written contractual agreement prior to the participant's participation in the program.

70.23(3) *Assistance with discharge from the program.* A program shall provide assistance to a participant and the participant's legal representative, if applicable, to ensure a safe and orderly discharge from the program when the participant exceeds the program's criteria for admission and retention.

[ARC 8177B, IAB 9/23/09, effective 1/1/10; ARC 1547C, IAB 7/23/14, effective 8/27/14]

481—70.24(231D) Involuntary discharge from the program.

70.24(1) *Program initiation of discharge.* If a program initiates the involuntary discharge of a participant and the action is not the result of a monitoring, including a complaint investigation or

program-reported incident investigation, by the department and if the participant or participant's legal representative contests the discharge, the following procedures shall apply:

a. The program shall notify the participant or participant's legal representative, in accordance with the contractual agreement, of the need to discharge the participant and of the reason for the discharge.

b. If, following the internal appeal process, the program upholds the discharge decision, the participant or participant's legal representative may utilize other remedies authorized by law to contest the discharge.

70.24(2) *Discharge pursuant to results of monitoring or complaint or program-reported incident investigation by the department.* If one or more participants are identified as exceeding the admission and retention criteria for participants and need to be discharged as a result of a monitoring or a complaint or program-reported incident investigation conducted by the department, the following procedures shall apply:

a. Notification of the program. Within 20 working days of the monitoring or complaint or program-reported incident investigation, the department shall notify the program, in writing, of the identification of any participant who exceeds admission and retention criteria.

b. Notification of others. Each identified participant, the participant's legal representative, if applicable, and other providers of services to the participant shall be notified of their opportunity to provide responses including: specific input, written comment, information, and documentation directly addressing any agreement or disagreement with the identification. All responses shall be provided to the department within 10 days of receipt of the notice.

c. Program agreement with the department's finding. If the program agrees with the department's finding and the program begins involuntary discharge proceedings, the program's internal appeal process in subrule 70.24(1) shall be utilized for appeals.

d. Program disagreement with the department's finding. If the program does not agree with the department's finding that the participant exceeds admission and retention criteria, the program may collect and submit all responses to the department, including those from other interested parties. In the program's response, the program shall identify the participant, list the known responses from others, and note the program's agreement or disagreement with the responses from others. The program's response shall be submitted to the department within 10 working days of the receipt of the notice. Submission of a response does not eliminate the applicable requirements, including submission of a plan of correction under 481—subrule 67.10(5). Other persons may also submit information directly to the department.

(1) Consideration of response. Within 10 working days of receipt of the program's response for each identified participant, the department shall consider the response and make a final finding regarding the continued retention of a participant.

(2) Amending the regulatory insufficiency. If the department's determination is to amend the regulatory insufficiency based on the response, the department shall modify the report of findings.

(3) Retaining regulatory insufficiency. If the department retains the regulatory insufficiency, the department shall review the plan of correction in accordance with this chapter and 481—Chapter 67. The department shall notify the program of the opportunity to appeal the report findings as they relate to the admission and retention decision.

(4) Effect of the filing of an appeal. If an appeal is filed, the participant who exceeds admission and retention criteria shall be allowed to continue to participate in the program until all administrative appeals have been exhausted. Appeals filed that relate to the participant's exceeding admission and retention criteria shall be heard within 30 days of receipt, and appropriate services to meet the participant's needs shall be provided during that period of time.

(5) Request for waiver of criteria for retention of a participant in a program. To allow a participant to continue to participate in the program, the program may request a waiver of criteria for retention of a participant pursuant to rule 481—67.7(231B,231C,231D) from the department within 10 working days of the receipt of the report.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.25(231D) Participant documents.

70.25(1) Documentation for each participant shall be maintained by the program and shall include:

- a.* A participation record including the participant's name, birth date, and home address; identification numbers; date of beginning participation; name, address and telephone number of health professional(s); diagnosis; and names, addresses and telephone numbers of family members, friends or other designated people to contact in the event of illness or an emergency;
- b.* Application forms;
- c.* The initial evaluations and updates;
- d.* A nutritional assessment as necessary;
- e.* The initial individual service plan and updates;
- f.* Signed authorizations for permission to release medical information, photographs, or other media information as necessary;
- g.* A signed authorization for the participant to receive emergency medical care as necessary;
- h.* A signed managed risk policy and signed managed risk consensus agreements, if any;
- i.* When any personal or health-related care is delegated to the program, the medical information sheet; documentation of health professionals' orders, such as those for treatment, therapy, and medication; and nurses' notes written by exception;
- j.* Medication lists, which shall be maintained in conformance with 481—subrule 67.5(4);
- k.* Advance health care directives as applicable;
- l.* A complete copy of the participant's contractual agreement, including any updates;
- m.* A written acknowledgment that the participant or the participant's legal representative, if applicable, has been fully informed of the participant's rights;
- n.* A copy of guardianship, durable power of attorney for health care, power of attorney, or conservatorship or other documentation of a legal representative;
- o.* Incident reports involving the participant, including but not limited to those related to medication errors, accidents, falls, and elopements (such reports shall be maintained by the program but need not be included in the participant's medical record);
- p.* A copy of waivers of admission or retention criteria, if any;
- q.* When the participant is unable to advocate on the participant's own behalf or the participant has multiple service providers, including hospice care providers, accurate documentation of the completion of routine personal or health-related care is required on task sheets. If tasks are doctor-ordered, the tasks shall be part of the medication administration records (MARs); and
- r.* Authorizations for the release of information, if any.

70.25(2) The program records relating to a participant shall be retained for a minimum of three years after the discharge or death of the participant.

70.25(3) All records shall be protected from loss, damage and unauthorized use.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.26(231D) Service plans.

70.26(1) A service plan shall be developed for each participant based on the evaluations conducted in accordance with subrules 70.22(1) and 70.22(2) and shall be designed to meet the specific service needs of the individual participant. The service plan shall subsequently be updated at least annually and whenever changes are needed.

70.26(2) Prior to the participant's signing the contractual agreement and participating in the program, a preliminary service plan shall be developed by a health care professional or human service professional in consultation with the participant and, at the participant's request, with other individuals identified by the participant, and, if applicable, with the participant's legal representative. All persons who develop the plan and the participant or the participant's legal representative shall sign the plan.

70.26(3) When a participant needs personal care or health-related care, the service plan shall be updated within 30 days of the participant's participation and as needed with significant change, but not less than annually.

a. If a significant change triggers the review and update of the service plan, the updated service plan shall be signed and dated by all parties.

b. If a significant change does not exist, the program may, after nurse review, add minor discretionary changes to the service plan without a comprehensive evaluation and without obtaining signatures on the service plan.

c. If a significant change relates to a recurring or chronic condition, a previous evaluation and service plan of the recurring condition may be utilized without new signatures being obtained. For example, with chronic exacerbation of a urinary tract infection, nurse review is adequate to institute the previously written evaluation and service plan.

70.26(4) The service plan shall be individualized and shall indicate, at a minimum:

a. The participant's identified needs and preferences for assistance;

b. Any services and care to be provided pursuant to the contractual agreement;

c. The service provider(s), if other than the program, including but not limited to providers of hospice care, home health care, occupational therapy, and physical therapy; and

d. For participants who are unable to plan their own activities, including participants with dementia, planned and spontaneous activities based on the participant's abilities and personal interests.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.27(231D) Nurse review. If a participant does not receive personal or health-related care, but an observed significant change in the participant's condition occurs, a nurse review shall be conducted. If a participant receives personal or health-related care, the program shall provide for a registered nurse or a licensed practical nurse via nurse delegation:

70.27(1) To monitor, at least every 90 days, or after a significant change in the participant's condition, any participant who receives program-administered prescription medications for adverse reactions to the medications and to make appropriate interventions or referrals, and to ensure that the prescription medication orders are current and that the prescription medications are administered consistent with such orders; and

70.27(2) To ensure that health care professionals' orders are current for participants who receive health care professional-directed care from the program; and

70.27(3) To assess and document the health status of each participant, to make recommendations and referrals as appropriate, and to monitor progress relating to previous recommendations at least every 90 days and whenever there are changes in the participant's health status; and

70.27(4) To provide the program with written documentation of the activities under the service plan, as set forth in rule 481—70.26(231D), showing the time, date and signature.

NOTE: Refer to Table A at the end of this chapter. If the program does not provide personal or health-related care to a participant, nurse review is not required.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.28(231D) Food service.

70.28(1) The program shall provide or coordinate with other community providers to provide a hot or other appropriate meal(s) at least once a day or shall make arrangements for the availability of meals, unless otherwise noted in the contractual agreement.

70.28(2) Meals and snacks provided by the program but not prepared on site shall be obtained from or provided by an entity that meets the standards of state and local health laws and ordinances concerning the preparation and serving of food.

70.28(3) Menus shall be planned to provide the following percentage of the daily recommended dietary allowances as established by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences based on the number of meals provided by the program:

a. A minimum of 33½ percent if the program provides one meal per day;

b. A minimum of 66⅔ percent if the program provides two meals per day; and

c. One hundred percent if the program provides three meals per day.

70.28(4) Therapeutic diets may be provided by a program. If therapeutic diets are provided, they shall be prescribed by a physician, physician assistant, or advanced registered nurse practitioner. A

current copy of the Iowa Simplified Diet Manual published by the Iowa Dietetic Association shall be available and used in the planning and serving of therapeutic diets. A licensed dietitian shall be responsible for writing and approving the therapeutic menu and for reviewing procedures for food preparation and service for therapeutic diets.

70.28(5) Personnel who are employed by or contract with the program and who are responsible for food preparation or service, or both food preparation and service, shall have an orientation on sanitation and safe food handling prior to handling food and shall have annual in-service training on food protection.

a. In addition to the requirements above, a minimum of one person directly responsible for food preparation shall have successfully completed a state-approved food protection program by:

- (1) Obtaining certification as a dietary manager; or
- (2) Obtaining certification as a food protection professional; or
- (3) Successfully completing an ANSI-accredited certified food protection manager program meeting the requirements for a food protection program included in the Food Code adopted pursuant to Iowa Code chapter 137F. Another program may be substituted if the program's curriculum includes substantially similar competencies to a program that meets the requirements of the Food Code and the provider of the program files with the department a statement indicating that the program provides substantially similar instruction as it relates to sanitation and safe food handling.

b. If the person is in the process of completing a course or certification listed in paragraph "*a.*" the requirement relating to completion of a state-approved food protection program shall be considered to have been met.

70.28(6) Programs engaged in the preparation and service of meals and snacks shall meet the standards of state and local health laws and ordinances pertaining to the preparation and service of food and shall be licensed pursuant to Iowa Code chapter 137F. The department will not require the program to be licensed as a food establishment if the program limits food activities to the following:

a. All main meals and planned menu items must be prepared offsite and transferred to the program kitchen for service to participants.

b. Baked goods that do not require temperature control for safety and single-service juice or milk may be stored in the program's kitchen and provided as part of a continental breakfast.

c. Ingredients used for food-related activities with participants may be stored in the program's kitchen. Participant activities may include the preparation and cooking of food items in the program's kitchen if the activity occurs on an irregular or sporadic basis and the items prepared are not part of the program's menu.

d. Appropriately trained staff may prepare in the program's kitchen individual quantities of participant-requested menu-substitution food items that require limited or no preparation, such as peanut butter or cheese sandwiches or a single-service can of soup. The food items necessary to prepare the menu substitution may be stored in the program's kitchen. These food items may not be cooked in the program's kitchen but may be reheated in a microwave. A two- or four-slice toaster may be used for participant-requested menu-substitution items, but no bare-hand contact is permitted.

e. Warewashing may be done in the program's kitchen as long as the program utilizes a commercial dishwasher and documents daily testing of sanitizer chemical ppm and proper water temperatures. Verification by the department of these practices may be conducted during on-site visits.

70.28(7) Programs may have an on-site dietitian. Programs may secure menus and a dietitian through other methods.

[ARC 8177B, IAB 9/23/09, effective 1/1/10; ARC 1376C, IAB 3/19/14, effective 4/23/14; ARC 2463C, IAB 3/16/16, effective 4/20/16]

481—70.29(231D) Staffing. In addition to the general staffing requirements in rule 481—67.9(231B,231C,231D), the following requirements apply to staffing in programs.

70.29(1) No fewer than two staff persons who monitor participants shall be awake and on duty during all hours of operation when two or more participants are participating in the program.

70.29(2) The owner or management corporation of the program is responsible for ensuring that all personnel employed by or contracting with the program receive training appropriate to assigned tasks and target population.

70.29(3) A program that serves one or more participants with cognitive disorders or dementia shall follow written procedures that address how the program will respond to the emergency needs of the participants.

70.29(4) The program shall notify the department in writing within ten business days of a change in the program's manager.

[ARC 8177B, IAB 9/23/09, effective 1/1/10; ARC 1927C, IAB 4/1/15, effective 5/6/15]

481—70.30(231D) Dementia-specific education for program personnel.

70.30(1) All personnel employed by or contracting with a dementia-specific program shall receive a minimum of eight hours of dementia-specific education and training within 30 days of either employment or the beginning date of the contract, as applicable.

70.30(2) The dementia-specific education or training shall include, at a minimum, the following:

- a. An explanation of Alzheimer's disease and related disorders;
- b. The program's specialized dementia care philosophy and program;
- c. Skills for communicating with persons with dementia;
- d. Skills for communicating with family and friends of persons with dementia;
- e. An explanation of family issues such as role reversal, grief and loss, guilt, relinquishing the care-giving role, and family dynamics;
- f. The importance of planned and spontaneous activities;
- g. Skills in providing assistance with instrumental activities of daily living;
- h. The importance of the service plan and social history information;
- i. Skills in working with challenging participants;
- j. Techniques for simplifying, cueing, and redirecting;
- k. Staff support and stress reduction; and
- l. Medication management and nonpharmacological interventions.

70.30(3) All personnel employed by or contracting with a dementia-specific program shall receive a minimum of two hours of dementia-specific continuing education annually. Direct-contact personnel shall receive a minimum of eight hours of dementia-specific continuing education annually.

70.30(4) An employee or contractor who provides documentation of completion of a dementia-specific education or training program within the past 12 months shall be exempt from the education and training requirement of subrule 70.30(1).

70.30(5) Dementia-specific training shall include hands-on training and may include any of the following: classroom instruction, Web-based training, and case studies of participants in the program.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.31(231D) Managed risk policy and managed risk consensus agreements. The program shall have a managed risk policy. The managed risk policy shall be provided to the participant along with the contractual agreement. The managed risk policy shall include the following:

70.31(1) An acknowledgment of the shared responsibility for identifying and meeting the needs of the participant and the process for managing risk and for upholding participant autonomy when participant decision making results in poor outcomes for the participant or others; and

70.31(2) A consensus-based process to address specific risk situations. Program staff and the participant shall participate in the process. The result of the consensus-based process may be a managed risk consensus agreement. The managed risk consensus agreement shall include the signature of the participant and the signatures of all others who participated in the process. The managed risk consensus agreement shall be included in the participant's file.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.32(231D) Life safety—emergency policies and procedures and structural safety requirements.

70.32(1) The program shall submit to the department and follow written emergency policies and procedures, which shall include the following:

- a. An emergency plan, which shall include procedures for natural disasters (identify where the plan is located for easy reference);
- b. Fire safety procedures;
- c. Other general or personal emergency procedures;
- d. Provisions for amending or revising the emergency plan;
- e. Provisions for periodic training of all employees;
- f. Procedures for fire drills;
- g. Regulations regarding smoking;
- h. Monitoring and testing of smoke-control systems;
- i. Participant evacuation procedures; and
- j. Procedures for reporting and documentation.

70.32(2) An operating alarm system shall be connected to each exit door in a dementia-specific program. A program serving a person(s) with cognitive disorder or dementia, whether in a general or dementia-specific setting, shall have:

- a. Written procedures regarding alarm systems and appropriate staff response when a participant's service plan indicates a risk of elopement or a participant exhibits wandering behavior.
- b. Written procedures regarding appropriate staff response if a participant with cognitive disorder or dementia is missing.
- c. The program shall obtain approval from the state fire marshal division before the installation of any delayed-egress specialized locking systems.

70.32(3) The program's structure and procedures and the facility in which a program is located shall meet the requirements adopted for adult day services programs in administrative rules promulgated by the state fire marshal. Approval of the state fire marshal indicating that the building is in compliance with these requirements is necessary for certification of a program.

70.32(4) The program shall have the means to control the maximum temperature of water at sources accessible by a participant to prevent scalding and shall control the maximum water temperature for participants with cognitive impairment or dementia or at a participant's request.

[ARC 8177B, IAB 9/23/09, effective 1/1/10; ARC 2463C, IAB 3/16/16, effective 4/20/16]

481—70.33(231D) Transportation. When transportation services are provided directly or under contract with the program:

70.33(1) The vehicle shall be accessible and appropriate to the participants who use it, with consideration for any physical disabilities and impairments.

70.33(2) Every participant transported shall have a seat in the vehicle, except for a participant who remains in a wheelchair during transport.

70.33(3) Vehicles shall have adequate seat belts and securing devices for ambulatory and wheelchair-using passengers.

70.33(4) Wheelchairs shall be secured when the vehicle is in motion.

70.33(5) During loading and unloading of a participant, the driver shall be in the proximate area of the participants in a vehicle.

70.33(6) The driver shall have a valid and appropriate Iowa driver's license or commercial driver's license as required by law for the vehicle being utilized for transport. If the driver is licensed in another state, the license shall be valid and appropriate for the vehicle being utilized for transport. The driver shall meet any state or federal requirements for licensure or certification for the vehicle operated.

70.33(7) Each vehicle shall have a first-aid kit, fire extinguisher, safety triangles and a device for two-way communication.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.34(231D) Activities.

70.34(1) The program shall provide appropriate activities for each participant. Activities shall reflect individual differences in age, health status, sensory deficits, lifestyle, ethnic and cultural beliefs, religious beliefs, values, experiences, needs, interests, abilities and skills by providing opportunities for a variety of types and levels of involvement.

70.34(2) Activities shall be planned to support the participant's service plan and shall be consistent with the program statement and participation policies.

70.34(3) A written schedule of activities shall be developed at least monthly and made available to participants and their legal representatives.

70.34(4) Participants shall be given the opportunity to choose their levels of participation in all activities offered in the program.

[ARC 8177B, IAB 9/23/09, effective 1/1/10]

481—70.35(231D) Structural requirements.

70.35(1) The structure, equipment and physical environment of the program shall be designed and operated to meet the needs of the participants. The building, grounds and equipment shall be well-maintained, clean, safe and sanitary.

70.35(2) There shall be at least one toilet for every ten participants and staff members.

70.35(3) Toilets and bathing and toileting appliances shall be equipped for use by participants with multiple disabilities.

70.35(4) There shall be a ratio of at least one hand-washing sink for every two toilets. The sink(s) shall be proximate to the toilets. Hand-washing facilities shall be readily accessible to participants and staff.

70.35(5) Shower and tub areas, if provided, shall be equipped with grab bars and slip-resistant surfaces.

70.35(6) Signaling emergency call devices shall be installed or placed in all bathroom areas, restroom stalls and showers, if any.

70.35(7) A telephone shall be available to participants to make and receive calls in a private manner and for emergency purposes.

70.35(8) A storage area(s) shall be provided for storage of program supplies and participants' possessions, which shall be stored in such a manner that, when not in use, will prevent personal injury to participants and staff.

70.35(9) The program shall provide a separate area to permit privacy for evaluations and to isolate participants who become ill.

70.35(10) The program shall meet other building and public safety codes, including rules pertaining to accessibility contained in the state building code in 661—Chapter 302 and provisions of the state building code relating to persons with disabilities.

70.35(11) The program shall meet the requirements in subrule 70.32(4).

[ARC 8177B, IAB 9/23/09, effective 1/1/10; ARC 2463C, IAB 3/16/16, effective 4/20/16]

481—70.36(231D) Identification of veteran's benefit eligibility.

70.36(1) Within 30 days of a participant's participation in an adult day services program that receives reimbursement through the medical assistance program under Iowa Code chapter 249A, the program shall ask the participant or the participant's personal representative whether the participant is a veteran or whether the participant is the spouse, widow or dependent of a veteran and shall document the response.

70.36(2) If the program determines that the participant may be a veteran or the spouse, widow, or dependent of a veteran, the program shall report the participant's name along with the name of the veteran, if applicable, as well as the name of the contact person for this information, to the Iowa department of veterans affairs. When appropriate, the program may also report such information to the Iowa department of human services.

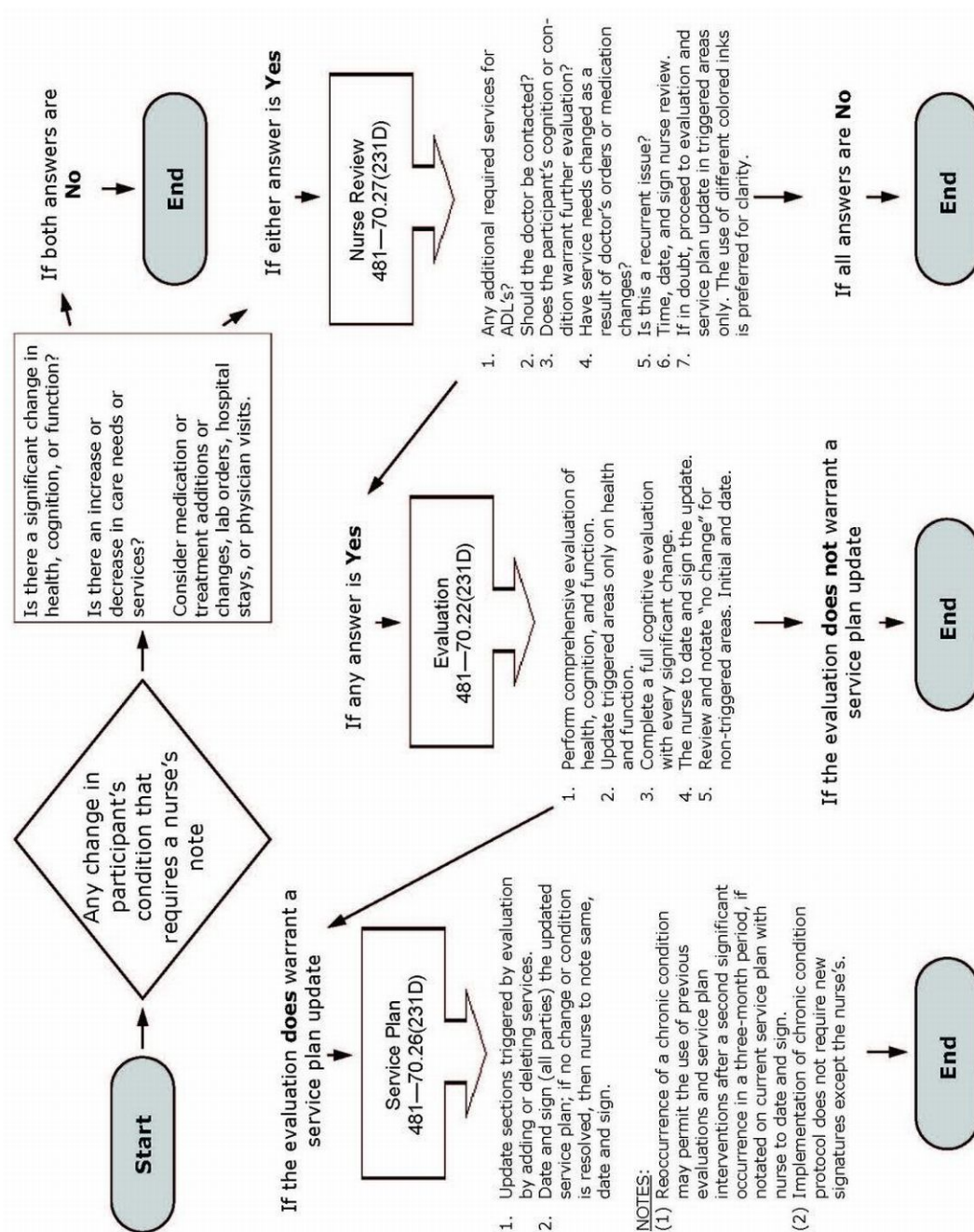
70.36(3) If a participant is eligible for benefits through the U.S. Department of Veterans Affairs or other third-party payor, the program first shall seek reimbursement from the identified payor source

before seeking reimbursement from the medical assistance program established under Iowa Code chapter 249A.

[**ARC 8177B**, IAB 9/23/09, effective 1/1/10]

These rules are intended to implement Iowa Code chapter 231D.

Table A



[Filed ARC 8177B (Notice ARC 7959B, IAB 7/15/09), IAB 9/23/09, effective 1/1/10]

[Filed ARC 1376C (Notice ARC 1291C, IAB 1/22/14), IAB 3/19/14, effective 4/23/14]

[Filed ARC 1547C (Notice ARC 1472C, IAB 5/28/14), IAB 7/23/14, effective 8/27/14]

[Filed ARC 1927C (Notice ARC 1860C, IAB 2/4/15), IAB 4/1/15, effective 5/6/15]

[Filed ARC 2463C (Notice ARC 2200C, IAB 10/14/15), IAB 3/16/16, effective 4/20/16]

CHAPTER 327

PRACTICE OF PHYSICIAN ASSISTANTS

[Prior to 8/7/02, see 645—325.6(148C) to 645—325.9(148C) and 645—325.18(148C)]

645—327.1(148C) Duties.

327.1(1) The medical services to be provided by the physician assistant are those delegated by a supervising physician. The ultimate role of the physician assistant cannot be rigidly defined because of the variations in practice requirements due to geographic, economic, and sociologic factors. The high degree of responsibility a physician assistant may assume requires that, at the conclusion of the formal education, the physician assistant possess the knowledge, skills and abilities necessary to provide those services appropriate to the practice setting. The physician assistant's services may be utilized in any clinical settings including, but not limited to, the office, the ambulatory clinic, the hospital, the patient's home, extended care facilities and nursing homes. Diagnostic and therapeutic medical tasks for which the supervising physician has sufficient training or experience may be delegated to the physician assistant after a supervising physician determines the physician assistant's proficiency and competence. The medical services to be provided by the physician assistant include, but are not limited to, the following:

- a.* The initial approach to a patient of any age group in any setting to elicit a medical history and perform a physical examination.
- b.* Assessment, diagnosis and treatment of medical or surgical problems and recording the findings.
- c.* Order, interpret, or perform laboratory tests, X-rays or other medical procedures or studies.
- d.* Performance of therapeutic procedures such as injections, immunizations, suturing and care of wounds, removal of foreign bodies, ear and eye irrigation and other clinical procedures.
- e.* Performance of office surgical procedures including, but not limited to, skin biopsy, mole or wart removal, toenail removal, removal of a foreign body, arthrocentesis, incision and drainage of abscesses.
- f.* Assisting in surgery.
- g.* Prenatal and postnatal care and assisting a physician in obstetrical care.
- h.* Care of orthopedic problems.
- i.* Performing and screening the results of special medical examinations including, but not limited to, electrocardiogram or Holter monitoring, radiography, audiometric and vision screening, tonometry, and pulmonary function screening tests.
- j.* Instruction and counseling of patients regarding physical and mental health on matters such as diets, disease, therapy, and normal growth and development.
- k.* Function in the hospital setting by performing medical histories and physical examinations, making patient rounds, recording patient progress notes and other appropriate medical records, assisting in surgery, performing or assisting with medical procedures, providing emergency medical services and issuing, transmitting and executing patient care orders as delegated by the supervising physician.
- l.* Providing services to patients requiring continuing care (i.e., home, nursing home, extended care facilities).
- m.* Referring patients to specialty or subspecialty physicians, medical facilities or social agencies as indicated by the patients' problems.
- n.* Immediate evaluation, treatment and institution of procedures essential to providing an appropriate response to emergency medical problems.
- o.* Order drugs and supplies in the office, and assist in keeping records and in the upkeep of equipment.
- p.* Admit patients to a hospital or health care facility.
- q.* Order diets, physical therapy, inhalation therapy, or other rehabilitative services as indicated by the patient's problems.
- r.* Administer any drug (a single dose).
- s.* Prescribe drugs and medical devices under the following conditions:

(1) The physician assistant shall have passed the national certifying examination conducted by the National Commission on the Certification of Physician Assistants or its successor examination approved by the board. Physician assistants with a temporary license may order drugs and medical devices only with the prior approval and direction of a supervising physician. Prior approval may include discussion of the specific medical problems with a supervising physician prior to the patient's being seen by the physician assistant.

(2) The physician assistant may not prescribe Schedule II controlled substances which are listed as depressants in Iowa Code chapter 124. The physician assistant may order Schedule II controlled substances which are listed as depressants in Iowa Code chapter 124 only with the prior approval and direction of a physician. Prior approval may include discussion of the specific medical problems with a supervising physician prior to the patient's being seen by the physician assistant.

(3) The physician assistant shall inform the board of any limitation on the prescriptive authority of the physician assistant in addition to the limitations set out in 327.1(1) "s"(2).

(4) A physician assistant shall not prescribe substances that the supervising physician does not have the authority to prescribe except as allowed in 327.1(1) "n."

(5) The physician assistant may prescribe, supply and administer drugs and medical devices in all settings including, but not limited to, hospitals, health care facilities, health care institutions, clinics, offices, health maintenance organizations, and outpatient and emergency care settings except as limited by 327.1(1) "s"(2).

(6) A physician assistant who is an authorized prescriber may request, receive, and supply sample drugs and medical devices except as limited by 327.1(1) "s"(2).

(7) The board of physician assistants shall be the only board to regulate the practice of physician assistants relating to prescribing and supplying prescription drugs, controlled substances and medical devices.

t. Supply properly packaged and labeled prescription drugs, controlled substances or medical devices when pharmacist services are not reasonably available or when it is in the best interests of the patient as delegated by a supervising physician.

(1) When the physician assistant is the prescriber of the medications under 327.1(1) "s," these medications shall be supplied for the purpose of accommodating the patient and shall not be sold for more than the cost of the drug and reasonable overhead costs as they relate to supplying prescription drugs to the patient and not at a profit to the physician or physician assistant.

(2) When a physician assistant supplies medication on the direct order of a physician, subparagraph (1) does not apply.

(3) A nurse or staff assistant may assist the physician assistant in supplying medications when prescriptive drug supplying authority is delegated by a supervising physician to the physician assistant under 327.1(1) "s."

u. When a physician assistant supplies medications as delegated by a supervising physician in a remote site, the physician assistant shall secure the regular advice and consultation of a pharmacist regarding the distribution, storage and appropriate use of prescription drugs, controlled substances, and medical devices.

v. May, at the request of the peace officer, withdraw a specimen of blood from a patient for the purpose of determining the alcohol concentration or the presence of drugs.

w. Direct medical personnel, health professionals and others involved in caring for patients in the execution of patient care.

x. May authenticate medical forms by signing the form and including a supervising physician's name.

y. Perform other duties appropriate to a physician's practice.

z. Health care providers shall consider the instructions of the physician assistant to be instructions of a supervising physician if the instructions concern duties delegated to the physician assistant by the supervising physician.

327.1(2) Emergency medicine duties.

- a.* A physician assistant may be a member of the staff of an ambulance or rescue squad pursuant to Iowa Code chapter 147A.
- b.* A physician assistant shall document skills, training and education equivalent to that required of a certified advanced emergency medical technician or a paramedic.
- c.* A physician assistant must apply for approval of advanced care training equivalency on forms supplied by the board of physician assistants.
- d.* Exceptions to this subrule include:
 - (1) A physician assistant who accompanies and is responsible for a transfer patient;
 - (2) A physician assistant who serves on a basic ambulance or rescue squad service; and
 - (3) A physician assistant who renders aid within the physician assistant's skills during an emergency.

645—327.2(148C) Prohibition. No physician assistant shall be permitted to prescribe lenses, prisms or contact lenses for the aid, relief or correction of human vision. No physician assistant shall be permitted to measure the visual power and visual efficiency of the human eye, as distinguished from routine visual screening, except in the personal presence of a supervising physician at the place where these services are rendered.

645—327.3(148C) Free medical clinic. Rescinded IAB 9/15/04, effective 8/25/04.

645—327.4(148C) Remote medical site.

327.4(1) A physician assistant may provide medical services in a remote medical site if one of the following three conditions is met:

- a.* The physician assistant has a permanent license and at least one year of practice as a physician assistant; or
- b.* The physician assistant with less than one year of practice has a permanent license and meets the following criteria:
 - (1) The physician assistant has practiced as a physician assistant for at least six months; and
 - (2) The physician assistant and supervising physician have worked together at the same location for a period of at least three months; and
 - (3) The supervising physician reviews patient care provided by the physician assistant at least weekly; and
 - (4) The supervising physician signs all patient charts unless the medical record documents that direct consultation with the supervising physician occurred; or
- c.* The physician assistant and supervising physician provide a written statement sent directly to the board that the physician assistant is qualified to provide the needed medical services and that the medical care will be unavailable at the remote site unless the physician assistant is allowed to practice there. In addition, for three months the supervising physician must review patient care provided by the physician assistant at least weekly and must sign all patient charts unless the medical record documents that direct consultation with the supervising physician occurred.

327.4(2) A supervising physician must visit a remote site to provide additional medical direction, medical services and consultation at least every two weeks or less frequently as specified in special circumstances. When visits are less frequent than every two weeks in unusual or emergency circumstances, the board shall be notified in writing of these circumstances.

[ARC 1909C, IAB 3/18/15, effective 4/22/15; see Delay note at end of chapter; ARC 2436C, IAB 3/16/16, effective 2/16/16]

645—327.5(147) Identification as a physician assistant. The physician assistant shall be identified as a physician assistant to patients and to the public.

645—327.6(147) Prescription requirements.

327.6(1) Each written outpatient prescription drug order issued by a physician assistant shall contain the following:

- a.* The date of issuance.

- b. The name and address of the patient for whom the drug is prescribed.
- c. The name, strength, and quantity of the drug, medicine, or device prescribed and directions for use.
- d. When delegated prescribing occurs, the supervising physician's name shall be used, recorded, or otherwise indicated in connection with each individual prescription so that the individual who dispenses or administers the prescription knows under whose delegated authority the physician assistant is prescribing. Notification may include, but is not limited to, including the physician's name on the prescription, including the physician's name in the memo section of an electronic prescription, or providing the physician's name by telephone or other electronic means. If, in an electronic prescription record, the record does not include a dedicated field for the name of the supervising physician, a memo or comment field may be used to record the supervising physician's name by entering the code "SP01" and then the supervising physician's name prior to any other comment in the memo or comment field.
- e. The physician assistant's name and the practice address.
- f. The signature of the physician assistant followed by the initials "PA."
- g. The Drug Enforcement Administration (DEA) number of the physician assistant if the prescription is for a controlled substance.

All other prescriptions shall comply with paragraph "d."

327.6(2) Each oral prescription drug order issued by a physician assistant shall include the same information required for a written prescription, except for the written signature of the physician assistant and the address of the practitioners.

[ARC 9217B, IAB 11/3/10, effective 12/8/10; ARC 9844B, IAB 11/16/11, effective 12/21/11]

645—327.7(147) Supplying—requirements for containers, labeling, and records.

327.7(1) Containers. A prescription drug shall be supplied in a container which meets the requirements of the Poison Prevention Packaging Act of 1970, 15 U.S.C. §§1471-1476 (1976), which relate to childproof closure, unless otherwise requested by the patient. The containers must also meet the requirements of Section 502G of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. §§301 et seq. (1976), which pertain to light resistance and moisture resistance needs of the drug supplied.

327.7(2) Labeling. A label bearing the following information shall be affixed to a container in which a prescription drug is supplied:

- a. The name and practice address of the supervising physician and physician assistant.
- b. The name of the patient.
- c. The date supplied.
- d. The directions for administering the prescription drug and any cautionary statement deemed appropriate by the physician assistant.
- e. The name, strength and quantity of the prescription drug in the container.
- f. When supplying Schedule II, III, or IV controlled substances, the federal transfer warning statement must appear on the label as follows: "Caution: Federal law prohibits the transfer of this drug to any person other than the patient for whom it was prescribed."

327.7(3) Samples. Prescription sample drugs will be provided without additional charge to the patient. Prescription sample drugs supplied in the original container or package shall be deemed to conform to labeling and packaging requirements.

327.7(4) Records. A record of prescription drugs supplied by the physician assistant to a patient shall be kept which contains the label information required by paragraphs 327.7(2) "b" to "e." Noting such information on the patient's chart or record is sufficient.

These rules are intended to implement Iowa Code section 147.107 and chapters 148C and 272C.

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[Filed ARC 9844B (Notice ARC 9580B, IAB 6/29/11), IAB 11/16/11, effective 12/21/11]

[Filed ARC 1909C (Notice ARC 1741C, IAB 11/26/14), IAB 3/18/15, effective 4/22/15]²

[Filed Emergency ARC 2436C, IAB 3/16/16, effective 2/16/16]

¹ June 16, 2004, effective date of amendments published in ARC 3345B delayed 70 days by the Administrative Rules Review Committee at its meeting held June 7, 2004.

² April 22, 2015, effective date of ARC 1909C [327.4(2)] delayed until the adjournment of the 2016 General Assembly by the Administrative Rules Review Committee at a special meeting held April 20, 2015. At its meeting held February 5, 2016, the Committee extended the delay 70 days beyond the adjournment of the 2016 General Assembly.

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[Prior to 11/19/97, see Labor Services Division[347]]

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AMUSEMENT PARKS AND RIDES

CHAPTER 61

ADMINISTRATION OF IOWA CODE CHAPTER 88A

[Prior to 9/24/86, Labor, Bureau of [530]]

[Prior to 10/21/98, see 347—Ch 61]

875—61.1(88A) Scope. 875—Chapters 61 through 63 do not apply to the following:

61.1(1) A water park or water park attraction including, but not limited to, a water slide, wave action pool, and lazy river. This subrule does not apply to an amusement ride that propels patrons using a power source other than gravity even though water is present.

61.1(2) A live-animal ride.

61.1(3) A vessel inspected pursuant to Iowa Code chapter 462A.

61.1(4) An amusement structure in which the patrons navigate on their own power and the patrons do not ride, climb, or walk on a mechanical component.

61.1(5) A device that meets all of the following criteria:

- a. Was designed and built to be operated by a coin, card, or token;
- b. Was designed and built to be operated by the patron rather than an attendant;
- c. Operates on self-contained wiring that was installed by the manufacturer;
- d. Operates on less than 120 volts of electrical power; and
- e. Is within or is part of a structure subject to a state or local building code.

61.1(6) Playground equipment owned, maintained, and operated by any political subdivision of this state.

61.1(7) A concession booth, amusement device, or amusement ride that meets all of the following:

- a. Is owned and operated by a nonprofit organization or school; and
- b. Is located in a building subject to inspection by the state fire marshal or a local government.

61.1(8) Nonmechanized physical fitness and playground equipment unless a fee is charged to use the equipment.

61.1(9) Physical fitness equipment that does not meet the definition of “amusement device.”

61.1(10) A tramway used as a ski lift.

61.1(11) A scenic railway operating on standard-gauge rails.

61.1(12) A zip line or climbing wall located at a camp or retreat owned or operated by a nonprofit religious, educational or charitable institution or association.

[ARC 2428C, IAB 3/2/16, effective 4/6/16; see Delay note at end of chapter]

875—61.2(88A) Definitions. The definitions in this rule apply to 875—Chapters 61 through 63.

“*Air-supported structure*” means an amusement device that employs a high-strength fabric or film that achieves its strength, shape and stability from internal air pressure provided by a mechanical device such as an air blower or fan.

“*Amusement device*” means a climbing wall utilizing an auto-belay system; a bungee jump as defined in 875—Chapter 63; a device allowing a patron to jump on a trampoline while attached to one or more bungee cords; a dry slide; a mechanical bull; a zip line that does not allow the rider to touch the ground at all times; and an air-supported structure.

“*ANSI*” means the American National Standards Institute.

“*Assistant*” means a paid or volunteer person working under the direct supervision of an attendant or operator.

“*ASTM*” means the ASTM Standards on Amusement Rides and Devices published by ASTM International.

“*Attendant*” means a paid or volunteer person who controls patron restraints or the operation, starting, stopping, or speed of covered equipment.

“*Carnival*” means an enterprise offering amusement or entertainment to the public in, upon, or by means of amusement devices or rides or concession booths.

“*Certificate of noncompliance*” means:

1. A certificate of noncompliance issued by the child support recovery unit, department of human services, pursuant to Iowa Code chapter 252J;
2. A certificate of noncompliance issued by the college student aid commission pursuant to Iowa Code chapter 261; or
3. A certificate of noncompliance issued by the centralized collection unit, department of revenue, pursuant to Iowa Code chapter 272D.

"Commissioner" means the labor commissioner or the labor commissioner's authorized designee.

"Concession booth" means a structure that is powered by electricity and offers amusements to the public at more than one fair or carnival, or at one fair or carnival for more than seven consecutive days. A structure or enclosure offering only goods, food or beverages, rather than amusements, is not a "concession booth."

"Covered equipment" means an amusement ride, amusement device, concession booth or related electrical equipment that is covered by Iowa Code chapter 88A.

"Fair" means an enterprise principally devoted to the exhibition of products of agriculture or industry in connection with the operation of covered equipment.

"Major breakdown" means stoppage of operation from any cause that results in damage, failure, or breakage in a stress-bearing part of covered equipment.

"Major modification" means any change to the structure of or to an operational characteristic, capacity, classification, or mechanism of covered equipment. "Major modification" includes, but is not limited to, changing the mode of transportation from non-wheeled to a truck or flat-bed mount or changing the mode of assembly or other operational functions from manual to mechanical or hydraulic.

"NFPA" means the National Fire Protection Association.

"Operator" means a person, or the agent of a person, who owns or controls or has the duty to control the operation of covered equipment at a carnival or fair. "Operator" includes an agency of the state or any of its political subdivisions. "Operator" shall include a person who leases covered equipment and controls or has the duty to control its operation at a carnival or fair.

"Related electrical equipment" means a portable generator, blower, or other equipment necessary to the operation of an amusement ride, amusement device, or concession booth.

"Reportable incident" means an event described by one or more of the following:

1. Damage, failure or breakage of a stress-bearing part of an amusement ride or amusement device;
2. Cessation of covered equipment for more than 20 minutes with at least one rider aboard;
3. An occurrence that nearly resulted in personal injury; or
4. An occurrence that caused the operator to cease operations unexpectedly to avoid an injury or illness.

"Rope lay" means the length along the rope in which one strand makes a complete revolution around the rope.

"Walkway" means a public passage through a carnival, fair, or park.

[ARC 2428C, IAB 3/2/16, effective 4/6/16; see Delay note at end of chapter]

875—61.3(88A) Owner and operator requirements. No person shall operate covered equipment at a carnival or fair unless the person holds a current operating permit and the covered equipment has passed an Iowa inspection.

61.3(1) Operating permit. No later than May 1 and at least 14 days before operation begins each calendar year, the operator of covered equipment shall apply to the commissioner for an operating permit. Application shall be made on a form provided by the commissioner. Each of the following shall be submitted with the completed operating permit application:

- a. The applicable fee;
- b. A certificate of insurance issued by an insurance company authorized to do business in Iowa. The certificate of insurance shall:

(1) Certify a policy in the minimum amount of \$1 million for bodily injury, death, or property damage in any one occurrence;

- (2) List the specific pieces of equipment that are covered and, if applicable, those that are not covered; and
- (3) Include “Division of Labor Services—Amusements” as a certificate holder;
 - c. The operator’s itinerary identifying the covered equipment to be operated and the dates and locations where each will be operated;
 - d. General design criteria, safety factors, materials utilized, and stress analysis unless the amusement ride or amusement device was granted an Iowa amusement inspection sticker during the previous calendar year;
 - e. Certification of compliance with applicable training and maintenance requirements;
 - f. With an application submitted after May 1, proof that the applicant could not have reasonably complied with the May 1 deadline and proof that the application was filed immediately after need for the permit was known;
 - g. Separately for each bungee jump:
 - (1) A site operating manual;
 - (2) A report which is prepared and sealed by a professional engineer who is licensed in Iowa and which certifies that the design and construction of the equipment and structure are suitable for the intended use and conform to Iowa law, recognized engineering practices, procedures, standards and specifications;
 - (3) Site plan drawings depicting the preparation area, the jump space, the landing area, the recovery area and other features to be included in the approved operating site;
 - (4) Specifications of equipment and structures; and
 - (5) Depictions of the location, specifications, dimensions, and type of air bag, pool or body of water where the jumper will land.

61.3(2) *Changes to information submitted with application.* The operator shall immediately notify the commissioner of any changes to the operator’s itinerary. The operator shall promptly notify the commissioner of other changes to information provided with the operating permit application.

61.3(3) *Leases.* The requirements of this subrule apply when covered equipment is leased for use at a fair or carnival.

a. The owner shall notify the commissioner within 48 hours of leasing the covered equipment. The notification shall include the name, address, and contact information for the lessee and lessor, a description of the covered equipment, and the dates and location of its intended operation.

b. The lessor shall give the lessee a copy of the manual for the leased covered equipment and shall train the lessee or the lessee’s designated representatives on the use of the equipment.

c. The lessee shall obtain an operating permit.

61.3(4) *Personal injuries and deaths.*

a. The operator shall immediately report by telephone any accident that results in medical care beyond first aid.

b. Within 48 hours after an operator is notified of a claim or report to the operator’s insurance provider, the operator shall submit a duplicate copy of the report or claim to the commissioner.

c. The commissioner may require that the scene of an accident be secured and not disturbed to any greater extent than necessary for removal of the deceased or injured person. If covered equipment is removed from service by the commissioner, the covered equipment shall be returned to service only upon the commissioner’s authorization.

61.3(5) *Major breakdown report.* The operator shall report a major breakdown of covered equipment to the commissioner immediately and provide a detailed report in writing within 48 hours. The commissioner may order the covered equipment to be withheld from operation, and in such case, the commissioner shall conduct an immediate investigation. The covered equipment shall be released for repair and operation only after the commissioner’s investigation is complete.

61.3(6) *Advance notice of major modification.* The operator shall notify the commissioner in writing at least ten days prior to a major modification. If requested by the commissioner, the operator shall provide plans, diagrams, and ride analysis documentation consistent with ASTM F2291-15.

61.3(7) *Technical data.* If requested by the commissioner, the operator shall provide an English language version of the following:

a. Data concerning constant, reversible, or eccentric forces generated by acceleration, deceleration, wind, centrifugal action, or inertia.

b. Stress analysis and other data pertinent to the structural materials, design, structure, factors of safety or performance characteristics.

[ARC 2428C, IAB 3/2/16, effective 4/6/16; see Delay note at end of chapter]

875—61.4(88A) Inspections. Pursuant to Iowa Code chapter 88A, covered equipment must pass an inspection at least annually. Inspections will be performed according to the rules set forth and standards adopted in 875—Chapters 61 to 63.

61.4(1) *Inspection types.* In addition to the inspections listed below, an inspection may be conducted by the commissioner at any time. The fee schedule for annual inspections set forth in Iowa Code section 88A.4 shall apply to all inspections performed by division of labor services inspectors. No person shall operate covered equipment at a fair or carnival unless the covered equipment has passed an inspection in the current calendar year.

a. Annual inspection by owner. At the discretion of the commissioner, the owner of an air-supported structure may be designated by the commissioner to perform the annual inspection of the owner's air-supported structure and blower. An owner designated pursuant to this paragraph shall perform the inspection according to applicable standards. The owner shall submit in the format required by the commissioner an affidavit attesting to the performance of the inspection, correction of code violations, and other required information.

b. Annual inspection by a division of labor services inspector. Unless an inspection is waived pursuant to Iowa Code section 88A.13, or the inspection is performed by the owner pursuant to paragraph 61.4(1) "a," a division of labor services inspector shall inspect covered equipment prior to operation.

c. Major modification inspection. After covered equipment has undergone a major modification, the covered equipment must pass an inspection by a division of labor inspector before it is put back into use.

61.4(2) *Safety order.* If the division of labor services inspector finds a code violation, the inspector will issue a safety order requiring that the condition be corrected. The deadline for correction of the code violation shall be set forth in the safety order. If the inspector finds one or more code violations pertaining to more than one-half of the seating capacity of an amusement ride, the amusement ride shall not be operated until the violations are corrected. If code violations pertain to one-half or less of the seating capacity of an amusement ride, the amusement ride may be shut down at the discretion of the inspector.

61.4(3) *Cessation order.* If the inspector identifies covered equipment that is hazardous or unsafe, the inspector shall issue a cessation order. The commissioner shall establish that the code violation is corrected before operation of the covered equipment is resumed.

[ARC 2428C, IAB 3/2/16, effective 4/6/16; see Delay note at end of chapter]

875—61.5(88A) Amusement inspection sticker. Covered equipment shall not be operated without a current sticker.

61.5(1) After covered equipment has passed an annual inspection by the division of labor services inspector, the division of labor services inspector shall affix an amusement inspection sticker to a basic part of the covered equipment in such a manner as to be readily accessible by the inspector.

61.5(2) After the commissioner receives satisfactory proof of inspection from an owner designated by the labor commissioner pursuant to paragraph 61.4(1) "a," the commissioner shall mail the sticker to the owner. The owner shall properly affix the sticker to a basic part of the air-supported structure or blower before operation.

61.5(3) After covered equipment passes a major-modification inspection, a new amusement inspection sticker will be issued.

61.5(4) Before covered equipment is sold, the seller shall remove the amusement inspection sticker. If a current amusement inspection sticker is no longer legible, the operator may request a replacement sticker.

[ARC 2428C, IAB 3/2/16, effective 4/6/16; see Delay note at end of chapter]

875—61.6(88A,252J,261,272D) Termination, denial, suspension, or revocation of an operating permit.

61.6(1) All active operating permits shall terminate automatically on December 31 of the year of issuance.

61.6(2) The commissioner may suspend or revoke an operating permit for any of the following reasons:

- a. Negligence in the operation of covered equipment;
- b. Repeated failure to perform or document proper daily inspections;
- c. Misrepresentation of material information required as a part of the operating permit application package;
- d. Failure to comply with a safety order or cessation order issued by the commissioner;
- e. Operation of covered equipment in disregard of public health, safety and welfare;
- f. Termination of the required insurance coverage;
- g. Failure to pay a liquidated debt owed to the commissioner;
- h. Receipt by the commissioner of a certificate of noncompliance;
- i. Failure of an operator to comply with the proper procedures;
- j. Failure of an operator to provide an adequate number of properly trained and qualified assistants and attendants; or
- k. Submission of a false affidavit of annual inspection by the owner of an air-supported structure.

61.6(3) The commissioner may deny an application for an operating permit if the application packet is inadequate or for any reason set forth as grounds for suspension or revocation of an operating permit.
[ARC 2428C, IAB 3/2/16, effective 4/6/16; see Delay note at end of chapter]

875—61.7(17A,88A,252J,261,272D) Procedures for revocation, suspension, or denial of an operating permit or amusement inspection sticker. The procedures set forth in this rule govern the revocation, suspension or denial of an operating permit or amusement inspection sticker.

61.7(1) If the commissioner initiates revocation, suspension or denial due to the receipt of a certificate of noncompliance, the applicable procedures of Iowa Code chapter 252J, 261, or 272D shall apply.

61.7(2) In the event that immediate action is required due to imminent danger to the public health, safety or welfare, the following procedures shall apply:

- a. The commissioner shall prepare a safety order describing the hazardous condition and shall give the operator, or the operator's representative on site, a copy of the safety order.
- b. The commissioner shall remove the amusement inspection sticker or stickers from covered equipment as necessary to protect the public health, safety or welfare.
- c. The commissioner shall proceed as quickly as feasible to give the operator an opportunity for a hearing as set forth in subrule 61.7(3).

61.7(3) In all other cases, the following procedures shall apply:

- a. The commissioner shall serve a notice by restricted certified mail to the address listed on the operating permit application or by other service as permitted by Iowa Code chapter 17A.
- b. The operator shall have 20 days to file a written notice of contest with the commissioner. If the operator does not file a written notice of contest within 20 days of receipt of the notice, the action stated in the notice shall automatically be effective.
- c. The hearing procedures in 875—Chapter 1 shall govern.
- d. Within five business days of final agency action revoking or suspending an operating permit, the operator shall forfeit the operating permit to the commissioner.

[ARC 2428C, IAB 3/2/16, effective 4/6/16; see Delay note at end of chapter]

875—61.8(88A) Payments. Fees due for inspections and operating permits shall be paid by money order or certified check unless the commissioner has given prior approval for a check written on a business account.

[ARC 2428C, IAB 3/2/16, effective 4/6/16; see Delay note at end of chapter]

These rules are intended to implement Iowa Code chapters 17A, 88A, 252J, 261, and 272D.

[Filed 2/21/73, amended 12/20/73, 4/8/75, 6/19/75]

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[Filed ARC 2428C (Notice ARC 2354C, IAB 1/6/16), IAB 3/2/16, effective 4/6/16]¹

¹ April 6, 2016, effective date of the rescission of former Chapter 61 and the adoption of new Chapter 61 herein [ARC 2428C] delayed 70 days by the Administrative Rules Review Committee at its meeting held March 4, 2016.

CHAPTER 62
SAFETY RULES FOR AMUSEMENT RIDES, AMUSEMENT DEVICES,
AND CONCESSION BOOTHS

[Prior to 9/24/86, Labor, Bureau of [530]]

[Prior to 10/21/98, see 347—Ch 62]

875—62.1(88A) Scope. Rule 875—62.2(88A) applies to all covered equipment. The remaining rules of this chapter apply to all covered equipment, except a bungee jump covered by 875—Chapter 63.

[ARC 2428C, IAB 3/2/16, effective 4/6/16; see Delay note at end of chapter]

875—62.2(88A) Other codes.

62.2(1) Carnivals, fairs, operators, and covered equipment may be regulated by city or county ordinances. Iowa Code chapter 92 and 875—Chapter 32 concerning child labor apply when an operator has employees who are under the age of 18. Iowa Code chapters 91A and 91D and 875—Chapters 35 and 215 to 218 govern payment of wages to an operator's employees. Nothing in 875—Chapters 61 through 63 shall be viewed as providing an exemption, waiver, or variance from any otherwise applicable regulation or statute.

62.2(2) State fire marshal rules set forth at 661—Chapter 201, General Fire Safety Requirements, are adopted by reference.

62.2(3) The following occupational safety and health standards are adopted by reference:

- a. 29 CFR 1910, Subpart D, Walking-working surfaces;
- b. 29 CFR 1910, Subpart H, Hazardous material;
- c. 29 CFR 1910, Subpart I, Personal protective equipment;
- d. 29 CFR 1910.147, Control of hazardous energy (lockout/tagout);
- e. 29 CFR 1910.151, Medical services and first aid;
- f. 29 CFR 1910, Subpart N, Materials handling and storage;
- g. 29 CFR 1910, Subpart O, Machinery and machine guarding;
- h. 29 CFR 1910, Subpart Q, Welding, cutting and brazing; and
- i. 29 CFR 1910, Subpart S, Electrical.

[ARC 2428C, IAB 3/2/16, effective 4/6/16; see Delay note at end of chapter]

875—62.3(88A) Site requirements.

62.3(1) Design. The grounds of a fair or carnival shall be designed according to the following criteria:

- a. Clearance around covered equipment shall meet or exceed the manufacturer's recommendations.
- b. Clearance around covered equipment shall be at least 6 feet unless a fence that is designed by the manufacturer as an integral part of the equipment is properly installed.
- c. Clearance between covered equipment and a facility for cooking shall be at least 10 feet.
- d. Walkways shall be wide, unobstructed, and open at each end.
- e. Walkways through concession booth backyards and over water lines and electrical lines shall be avoided.
- f. Intermingling of water lines and electrical lines shall be avoided.
- g. Guy wires, braces and ropes used for support:
 - (1) Shall not be placed in walkways or in the entrances or exits for covered equipment; and
 - (2) Shall be clearly marked with streamers or other devices when located adjacent to walkways.
- h. Stakes shall be covered.

62.3(2) Housekeeping. Adequate containers for refuse shall be provided. Accumulations of trash shall be removed promptly.

62.3(3) Lighting. Entrances and exits for covered equipment shall be provided with at least 5 foot-candles of light measured at grade level. No less than 10 foot-candles of lighting shall be provided at all work levels for assembly and disassembly of covered equipment.

62.3(4) *Internal combustion engines.* Internal combustion engines shall be a minimum of 5 feet from an air-supported structure and shall be guarded or fenced to prevent patron exposure or access. An internal combustion engine operated in an enclosed area shall be provided with fresh-air intake and an exhaust discharge flue.

62.3(5) *Tents.* A tent enclosed with walls or sides and erected over covered equipment during operation or assembly of the covered equipment shall resist flame propagation after weathering. The operator shall have a certificate or a test report indicating the material meets the flame propagation performance criteria for tents set forth in Standard Methods of Fire Tests for Flame Propagation of Textiles and Films, NFPA 701-2010.

62.3(6) *Flammable waste and materials.* An operator shall provide identified covered and labeled metal containers for flammable waste. The containers shall be available to staff and attendants but shall not be accessible to patrons.

62.3(7) *Storage of hazardous or flammable materials.* Storage of more than 50 gallons of fuel, other flammable material, or hazardous gas is not permitted in any area accessible to the public.

62.3(8) *Walking surfaces.* Entrances and exits for covered equipment shall be adequate, unobstructed, and in accordance with the manufacturer's instructions. Hazards such as protruding nails, splinters, holes, loose boards, debris, obstructions, and projections are prohibited. Stairways, ramps and railings that meet the requirements of 29 CFR 1910.23 shall be provided where patrons enter or exit covered equipment above or below grade.

62.3(9) *Fences.* Fences or other barriers shall be staked or sandbagged securely to prevent movement. Placement of fences shall be consistent with the recommendations of the manufacturer. If the manufacturer's recommendation regarding fences is not available, fences shall be located to keep patrons at least 6 feet away from moving parts.

62.3(10) *Crowd control.* Chains, bars, gates or similar devices shall be used to direct and control patrons in a queue line.

62.3(11) *Setup.* Operators shall follow the manufacturer's instructions to ensure that covered equipment is level and stable. If the manufacturer's instructions are not available, the following shall apply:

- a. Permanent rides shall be placed on poured, reinforced concrete.
- b. Blocking for temporary rides shall meet the following criteria:
 - (1) Blocking shall be wider than it is high.
 - (2) The top level of the blocking shall be wider than the mud sill or landing gear.
 - (3) Blocks shall not be soft, damaged, deteriorated, hollow, porous, or brick.
 - (4) Blocking shall be placed on ground that was leveled by digging rather than by filling.
 - (5) Voids larger than 1/4 inch between blocks are prohibited.
 - (6) Two or more layers of blocks shall be crossed.

[ARC 2428C, IAB 3/2/16, effective 4/6/16; see Delay note at end of chapter]

875—62.4(88A) Design and manufacture of covered equipment. This rule sets forth requirements for the design and manufacture of all covered equipment, except a bungee jump covered by 875—Chapter 63.

62.4(1) *Codes adopted by reference.* ASTM F2374-10 shall apply to all air-supported structures notwithstanding the definition and use of the phrase "inflatable amusement device" in ASTM F2374-10.

a. *All covered equipment.* Effective July 1, 2016, all covered equipment shall comply with National Electric Code, NFPA 70-2014.

b. *Tramways.* All tramways subject to the rules of this chapter and in use prior to July 1, 2016, shall be designed and tested in accordance with the ANSI B77.1 standard in effect at the time of installation.

c. *New covered equipment.* Effective July 1, 2016, new covered equipment and covered equipment undergoing a major modification shall be designed and tested in accordance with ANSI B77.1-2011 and ANSI B77.1A-2012 and ASTM F1159-15a, F1193-14, F1957-99(2011), F2007-12, F2137-15, F2291-15, F2374-10, F2375-09, F2376-13, F2460-11, F2959-14, and F2960-15, as applicable.

d. Existing covered equipment. Covered equipment manufactured before July 1, 2016, must comply with the applicable design criteria of subrule 62.4(2) through July 1, 2021. After July 1, 2021, covered equipment, except tramways, shall meet the criteria for service-proven equipment set forth in ASTM F2291-15.

62.4(2) Design criteria. Structural materials and construction of covered equipment shall conform to recognized engineering practices, procedures, standards and specifications. The design, materials and construction features shall incorporate a safety factor of 5 or alternative safety factors recommended by the original manufacturer or by a professional engineer with credentials and experience acceptable to the commissioner.

62.4(3) Data plate. A manufacturer's data plate in compliance with ASTM F1193-14, section 10, shall be affixed to covered equipment.

62.4(4) Speed-limiting device. Covered equipment capable of exceeding its maximum safe operating speed shall be provided with a speed-limiting device. Steam engines that require an overspeed throttle setting to initiate the operation are exempt from the requirement of this subrule.

62.4(5) Patron restraint and containment. Covered equipment shall be designed to safely contain and restrain patrons during the intended action. Any surface within reach of a patron shall be smooth, rounded, and free from projections such as bolts, screws, or splinters. Padding shall be installed to prevent or minimize the possibility of injury.

62.4(6) Safety stop devices. Electrical safety stop devices shall cause covered equipment to fail safe in the event of power failure or any malfunction.

62.4(7) Chains. If a chain is used as a safety device or in a stress-bearing application, the chain shall be certified with adequate load-carrying capacity. Twisted wire or stamped chain shall not be used for safety devices or in stress-bearing applications.

62.4(8) Front openings and awnings. Front openings and awnings shall be stabilized with safety latches, safety pins, or other devices.

62.4(9) Shooting galleries. A shooting gallery shall use only equipment, shells, pellets, and bullets designed for shooting galleries. Means shall be provided to prevent turning the weapon away from the intended target.

62.4(10) Flying objects. Where flying objects such as darts, balls, pellets, shot, and bullets are a potential hazard:

a. Ricocheting shall be prevented by absorbent wings or panels; and

b. Absorbing walls, sandbags, or other mechanisms shall be installed along the bottom, back, and sides of the booth to protect passersby.

[ARC 2428C, IAB 3/2/16, effective 4/6/16; see Delay note at end of chapter]

875—62.5(88A) Maintenance of covered equipment. An operator shall conduct periodic inspections, repairs, tests, and maintenance as set forth in this rule, the manufacturer's recommendations, ANSI B77.1-2011 and ANSI B77.1A-2012 and ASTM F770-15, F1159-15a, F1193-14, F2007-12, F2137-15, F2374-10, F2375-09, F2376-13, F2460-11, F2959-14, and F2960-15, as applicable. ASTM F2374-10 shall apply to all air-supported structures notwithstanding the definition and use of the phrase "inflatable amusement device" in ASTM F2374-10. An operator shall make a written record of all inspections, maintenance, tests, and repairs of covered equipment, and the records shall be available to the commissioner.

62.5(1) Pressure equipment. The operator shall inspect and maintain all air and gas compressors, tanks, piping and equipment pursuant to the manufacturer's recommendations.

62.5(2) Wire rope rollers, drums and sheaves. The operator shall periodically inspect and maintain for cleanliness and safety the mechanical devices, such as rollers, drums and sheaves, that brake, control, or come into contact with wire rope. The operator shall immediately replace mechanical devices that have broken or damaged parts, missing pieces, undue roughness or uneven wear.

62.5(3) Mechanical members. The operator shall periodically inspect pinions, frames, sweeps, eccentrics and other mechanical members for wear, cracks and other signs of deterioration. The operator shall make necessary repairs.

62.5(4) Bearings. The operator shall periodically inspect, lubricate, clean and repair bearing surfaces, ball joints and other single or multiple direction mechanical surfaces.

62.5(5) Gears. The operator shall keep gears properly aligned and in good repair.

62.5(6) Nondestructive testing. The operator shall ensure that appropriate nondestructive testing (NDT) is conducted and that documentation is available for review. NDT shall be performed at the following times:

- a. At intervals recommended by the manufacturer;
- b. When required by the commissioner due to a welded repair;
- c. When required by the commissioner due to a visual indication of a potentially hazardous condition; and
- d. When recommended by a bulletin prepared according to ASTM F1193-14.

62.5(7) Electrical wiring. Electrical wiring shall meet the requirements of National Electrical Code, NFPA 70-2014. The operator shall regularly inspect wiring for wear, cracks, or other signs of deterioration and shall replace worn wiring.

62.5(8) Patron restraint. The operator shall inspect retaining, restraining and containing devices daily before use and shall immediately repair or replace worn or damaged areas.

62.5(9) Hydraulic systems. The operator shall inspect each hydraulic system for leaks, damaged pipes, and worn or deteriorated hoses. Material that hinders visible inspection is prohibited. The operator shall make appropriate repairs.

62.5(10) Relief devices. The operator shall periodically exercise pressure relief valves or devices to ensure that they operate properly. The operator shall periodically inspect pressure relief devices to ensure that they are set at appropriate limits.

62.5(11) Wire rope inspection. The operator shall regularly inspect the entire length of each wire rope according to the manufacturer's recommendations. At a minimum, wire rope shall be inspected each time covered equipment is set up.

62.5(12) Wire rope replacement. The operator shall replace a wire rope if:

- a. There are six or more distributed broken wires in one rope lay or three broken wires in one strand in one rope lay;
- b. There is more than one broken wire in one rope lay and one of the following conditions exists:
 - (1) The wire rope is subject to constant pressure during operation, assembly, or disassembly of covered equipment;
 - (2) The wire rope is subject to surge shocks; or
 - (3) The wire rope could cause serious injuries by its failure; or
- c. At least one of the following conditions exists on at least one location on the wire rope:
 - (1) Abrasion, nicking, scrubbing or peening causing loss of more than one-third of the original diameter of the outside wires;
 - (2) Severe corrosion or rust;
 - (3) Severe kinking, crushing, bird-caging or other damage resulting in distortion of the rope structure;
 - (4) Heat damage;
 - (5) For a rope with an original diameter of 3/4 inch or less, a loss in diameter of more than 3/64 inch;
 - (6) For a rope with an original diameter of 7/8 inch to 1 1/8 inch, a loss in diameter of more than 1/16 inch; or
 - (7) For a rope with an original diameter of 1 1/4 inches to 1 1/2 inches, a loss in diameter of more than 3/32 inch.

62.5(13) Wire rope repair. Without lengthening or splicing, the operator shall replace the entire length of a wire rope that is damaged in one location with new rope of equivalent design and capacity. However, if feasible, wire rope that is worn near an attachment point may be repaired by shortening the length of the wire rope, rather than by replacing the entire rope; and wire ropes on tramways may be lengthened or repaired by splicing in accordance with the applicable ANSI code.

62.5(14) *Rope-fastening devices.* The operator shall inspect couplings, sockets and fittings to ensure that they are in accordance with the instructions and specifications of the designer, engineer or manufacturer.

62.5(15) *Wood components.* The operator shall inspect footings, splices, uprights, track timbers, ledgers, sills, laps, bracing, flooring and all other wood components of covered equipment for deterioration, cracks, or fractures. The operator shall replace defective wood members with material of equal or greater strength and capacity.

The operator shall remove a sufficient amount of soil around piling or wood members embedded in dirt to check for deterioration. When a wood piling requires replacement, the operator shall install a concrete pier. The top of the pier shall be installed so that the attached wood member is not exposed to dirt or water accumulation.

62.5(16) *Welding, cutting, or brazing.* Welding, cutting, or brazing shall not be performed where the point of operation is more than 4 feet above grade if patrons are on site. Where the point of operation is less than 4 feet above grade, welding, cutting or brazing may be performed if at least one of the following applies:

- a. Patrons are not on site.
- b. Patrons are separated from the point of operation by a solid barrier.
- c. A fence or similar barrier is erected to keep the public at least 150 feet from an arc welding operation that uses an electrode with a diameter of 3/16 inch or less.
- d. A fence or similar barrier is erected to keep the public at least 35 feet from gas welding, soldering, cutting or brazing of materials 1/2 inch thick or less.
- e. A fence or similar barrier is erected to keep the public at least 50 feet from gas welding, soldering, cutting or brazing of materials more than 1/2 inch thick.

62.5(17) *Fasteners.* The operator shall inspect nails, bolts, lag bolts and other fasteners for tightness, torque, and deterioration. The operator shall follow the manufacturer's recommendations for torque, replacement intervals, and fastener types.

62.5(18) *Brakes and rollback devices.* Brakes and rollback devices shall be inspected and maintained according to the manufacturer's recommendations.

[ARC 2428C, IAB 3/2/16, effective 4/6/16; see Delay note at end of chapter]

875—62.6(88A) Operations. Operations shall conform to ANSI B77.1 and ANSI B77.1A-2012 and ASTM F770-15, F1957-99(2011), F2007-12, F2137-15, F2374-10, F2375-09, F2376-13, F2460-11, and F2959-14, as applicable. ASTM F2374-10 shall apply to all air-supported structures notwithstanding the definition and use of the phrase "inflatable amusement device" in ASTM F2374-10.

62.6(1) *Attendants and assistants.* The operator shall provide a sufficient number of competent, trained workers, who shall be recognizable by their uniforms. Covered equipment shall have continuous, direct supervision while in use by a patron.

- a. Each attendant of a concession booth, except a shooting gallery or dart game, shall be at least 14 years of age. All other attendants shall be at least 18 years of age.
- b. Each assistant shall be at least 16 years of age.
- c. Each attendant and assistant shall be trained according to ANSI B77.1 and ANSI B77.1A-2012 and ASTM F770-15, F2007-12, F2460-11, and F2959-14, as applicable. Training documentation shall be available to the commissioner.
- d. An attendant shall have control of the covered equipment when it is in operation. When the covered equipment is shut down, provision shall be made to prevent unauthorized operation.
- e. Under normal operations, the duties of an assistant shall be limited to securing or removing seat restraints; checking height compliance; and loading and unloading patrons. In case of emergency, an assistant who has received appropriate training may terminate operations.

62.6(2) *Signal systems.* When an attendant does not have a clear view of the point where passengers are loaded or unloaded, signal systems shall be provided and utilized for controlling, starting and stopping covered equipment. Where coded signals are required, the code of signals shall be printed and kept posted at both the attendant's station and the location from which the signals are given. Attendants who use the

signals shall be trained in their use. Signal systems shall be tested each day prior to operation of the covered equipment. Covered equipment that requires a signal system shall not be operated if the system is not performing correctly.

62.6(3) *Overspeeding and overloading.* An attendant shall not load covered equipment beyond its rated capacity nor operate the covered equipment at a speed other than that prescribed by the design engineer or manufacturer.

62.6(4) *Refueling.* Fuel tanks for internal combustion engines should be large enough to run without interruption during normal operating hours. Where it is impossible to provide tanks of proper capacity for a complete day's operation, the covered equipment shall be shut down and evacuated during refueling.

62.6(5) *Safety stop device.* After actuation of a safety stop device, the cause of the actuation shall be determined and corrected before operation of covered equipment is resumed. No person shall operate covered equipment if a safety stop device has been bypassed.

[ARC 2428C, IAB 3/2/16, effective 4/6/16; see Delay note at end of chapter]

875—62.7(88A) Patrons.

62.7(1) *Notice to patrons.* The operator shall post signs as set forth in Iowa Code section 88A.16.

62.7(2) *Patron injury report.* Where covered equipment is operated, the operator shall make available an injury report form for use by patrons. The form shall comply with Iowa Code section 88A.15.

62.7(3) *Emergency procedure.* When lightning, high wind, tornado warning, severe storm warning, fire, violence, riot or civil disturbance creates a direct threat to patrons, the operators, assistants, and attendants shall cease operation of covered equipment and evacuate all patrons. Operation shall not resume until conditions have returned to a normal, safe operating environment.

62.7(4) *Medical and first aid.* The operator shall make available to patrons the same medical and first-aid provisions that are available to employees pursuant to 29 CFR 1910.151.

62.7(5) *Evacuation plan.* The operator shall plan for prompt retrieval of patrons from covered equipment that will not operate.

[ARC 2428C, IAB 3/2/16, effective 4/6/16; see Delay note at end of chapter]

These rules are intended to implement Iowa Code chapter 88A.

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¹ April 6, 2016, effective date of the rescission of former Chapter 62 and the adoption of new Chapter 62 herein [ARC 2428C] delayed 70 days by the Administrative Rules Review Committee at its meeting held March 4, 2016.

CHAPTER 63
SAFETY RULES FOR BUNGEE JUMPS

875—63.1(88A) Definitions.

“Air bag” means a device that cradles the body by using an air release breather system to dissipate the energy due to a fall, thereby allowing the jumper to land without an abrupt stop or bounce.

“Approved operating site” means the area, including the preparation area, the jump space, the landing area and the recovery area, reflected on the site plan drawings submitted to the commissioner by the operator.

“Bungee catapulting” means the action by which a jumper is held on the ground while the bungee cord is stretched causing the jumper to fly up when the jumper is released.

“Bungee cord” means the elastic rope to which the jumper is attached.

“Bungee jump” means the covered amusement device. “Bungee jump” does not mean a device allowing a patron to jump on a trampoline while attached to one or more bungee cords.

“Bungee jumping” means the action by which a jumper free falls from a height and the jumper’s descent is limited by attachment to the bungee cord.

“Bungee jump operation” means a site at which bungee jumping is conducted.

“Carabiner” means a shaped metal or alloy device used to connect sections of the jump rigging, equipment or safety gear.

“Cord” means a bungee cord.

“Dynamic load” means the load placed on the rigging and attachments by the initial free fall of the jumper and the bouncing movements of the jumper.

“Equipment” means each component that is utilized in a bungee jump operation, including devices used to raise, lower, and hold loads.

“Fence” means a structure designed and constructed to restrict people, animals and objects from entering the jump area.

“G-force” means acceleration felt as weight.

“Jump area” means the ground level area of the jump space.

“Jump direction” means the direction a jumper jumps when leaving the platform from the jump point. Jump direction is not affected by whether the jumper faces forward, backward or sideways.

“Jumper” means the person who, while attached to a bungee cord, falls or jumps from a platform or structure.

“Jump harness” means an assembly worn by a jumper and attached to a bungee cord.

“Jump height” means the distance from the jump point to the position on the ground where an object dropped from the jump point would impact in the absence of an air bag or other impediment.

“Jump master” means the person who is responsible for the bungee jump operation and who takes a jumper through the final stages to the actual jump or release.

“Jump point” means the location on the platform from which the jumper leaves the platform.

“Jump space” means the cylinder-shaped space with a center line extending downward from the jump point along the line of the jump height. The top of the jump space cylinder is at least 10 feet above the jump point. For jumps over land, the bottom of the jump space cylinder is the air bag. For jumps over water, the bottom of the jump space cylinder is the water surface. The distance from the jump point to the bottom of the jump space must be the maximum system length plus at least 30 feet. The radius of the cylinder must be at least 70 percent of the jump height.

“Landing area” means the surface where the jumper lands. If a lifting device moves the jumper so that landing occurs away from the jump area, the area covered by the movement of the lifting device shall be considered part of the landing area.

“Loaded length” means the length of the bungee cord when the cord is extended to its fullest designed length.

“Lowering system” means manual or mechanical equipment capable of lowering a jumper to the designated landing area.

“Maximum system length” means the maximum extended length of a bungee cord system including all attachments.

“Mechanically powered lowering system” means a system that utilizes a machine, rather than a human or other power source, to lower the jumper to the landing area.

“Platform” means the apparatus that is attached to a structure and from which a jumper falls or jumps.

“Preparation area” means the area where the jumper is registered, weighed, notified of potential risks, and otherwise prepared for the jump.

“Recovery area” means the area next to the landing area where the jumper may recover from the jump before exiting the bungee jump operation site.

“Rigging system” means the bungee cord plus any combination of components that connect the jumper through the bungee cord to an attachment point on the structure, lifting device or platform.

“Rigging system attachment point” means a device on the structure, lifting device or platform to which the rigging system is connected.

“Safety line” means a line used to connect a safety harness or belt to an anchor point.

“Sandbagging” means the practice of loading excess weight to a jumper in order to gain extra momentum on the rebound.

“Site operating manual” means the document containing the procedures and forms for the operation of bungee jumping activities and equipment.

“Structure” means a tower or similar structure used for bungee jumping.

“Tandem jumping” means the practice of having two or more people harnessed together while they jump or fall simultaneously from the same jump platform.

[ARC 2428C, IAB 3/2/16, effective 4/6/16; see Delay note at end of chapter]

875—63.2(88A) Prohibited activities. The following activities are prohibited:

1. Bungee catapulting where an overhead obstruction exists;
2. Sandbagging;
3. Tandem jumping; and
4. Jumping from a bridge, television tower, crane, grain bin, hot air balloon or any height not

designed for the purpose of bungee jumping.

[ARC 2428C, IAB 3/2/16, effective 4/6/16; see Delay note at end of chapter]

875—63.3(88A) Site requirements.

63.3(1) Storage. Adequate storage shall be provided to protect equipment from physical, chemical and ultraviolet-ray damage. The storage area shall be secured against unauthorized entry.

63.3(2) Communications.

- a. There shall be a public address system in operation during the hours of business.
- b. A radio communication link shall be established between the platform and the staff responsible for jumper registration, landing, and recovery.
- c. There shall be a means on site to communicate with local emergency responders.
- d. A clearly visible sign shall be placed at the entrance to the operating site setting forth medical restrictions for jumpers, the minimum-age requirement of 18 years of age, and instructions for jumpers.

63.3(3) Wind meter. An anemometer shall be installed in accordance with the manufacturer’s recommendations and in a location easily visible to the staff.

63.3(4) Lighting. Adequate lighting shall be provided at a site that operates at any time during the period of one-half hour prior to sunset until one-half hour after sunrise. At a minimum, the lighting system shall be capable of lighting the jump platform, the jump space and the landing area.

63.3(5) Fences. The operator shall use fences in compliance with ASTM 2291-14, Part 14, to limit access to the site.

[ARC 2428C, IAB 3/2/16, effective 4/6/16; see Delay note at end of chapter]

875—63.4(88A) Design.

63.4(1) Platform. A platform shall:

- a. Be capable of supporting at least five times the rated capacity or maximum intended load of the platform. If the jump equipment is attached to the platform as distinct from the structure, the dynamic load factor shall be added to the rated capacity or maximum intended load;
- b. Be attached with devices and to a part of the structure which is able to support at least five times the weight of the platform plus the rated capacity or maximum intended load;
- c. Have a slip-resistant floor surface;
- d. Have safety harness anchor points that are designed and located to facilitate ease of movement on the platform;
- e. Have a permanent enclosure, separate from the jump point, to contain the jumper during preparations such as fitting the jumper with a jump harness;
- f. Be equipped with a gate across the jump point. The gate shall open to the inside of the platform and shall have a safety lock or restraining device to prevent accidental opening;
- g. Be permanently marked with the maximum capacity of the platform and the rated capacity or maximum intended load; and
- h. Be configured to ensure that a jumper shall not come into contact with the supporting structure or tower during the jump.

63.4(2) Lowering system.

- a. The system for lowering the jumper to the landing area shall be capable of supporting at least five times the rated capacity or maximum intended load of the system. The lowering system shall be mechanically powered and shall not be capable of free fall.
- b. There shall be under the control of site personnel and described in the site emergency plan an alternative method for jumper recovery.

63.4(3) Bungee cord specifications.

- a. The bungee cords shall be designed and tested to perform within the prescribed limits of stretch and load as stated in this subrule. The cord shall be made from natural or synthetic rubber or rubber blend. The extended length of the cord shall be consistent each time the same load is applied.
- b. The G-force on a jumper using a waist and chest harness shall not exceed 4.5. The G-force on a jumper using an ankle harness shall not exceed 3.5.
- c. The operator shall ensure that the minimum factor of safety for any cord configuration attached to a jumper is at least 5. The cord configuration's minimum breaking strength divided by the maximum dynamic load possible for a jumper must be equal to or greater than 5.
- d. The design, manufacturing and testing of the bungee cords shall meet the following specifications:
 - (1) In a single-cord system, the binding shall hold the cord threads in the designed positions. The binding shall have the same characteristics as the cord itself. In a multiple-cord system, the cords shall be bound together in a manner that prevents potential entanglement of the jumper. The binding shall not damage or affect the performance of the cords.
 - (2) A bungee cord shall be designed and tested to perform in accordance with this rule.
 - (3) A load-versus-elongation curve shall be used to calculate the maximum G-force and factor of safety of the lot of bungee cords tested. These test results shall be readily available to the commissioner upon request.
 - (4) The end connections shall have a minimum safety factor of five times the maximum dynamic load for the bungee cord configuration. End connections shall be of a size and shape to allow easy attachment to the jumper harnesses and to the rigging. On multiple-cord systems, each cord shall meet its own independent end connection. On multiple-cord systems, end attachment points shall be bound together in a protective sheath that allows the individual ends to move with respect to each other.
 - (5) The operator shall ensure that the manufacturer of a bungee cord performs conclusive minimum break strength testing on a representative sample of all manufactured bungee cords. Construction of bungee cord samples shall be consistent with the manufacturer's standard methods, including bungee cord loop end connections that meet the specifications in this rule. The tests shall be performed or supervised by an independent certified testing authority or an independent licensed professional engineer. The testing authority shall determine the ultimate tensile strength of each test specimen and use the lowest

failure value recorded as the ultimate tensile strength value for the corresponding lot of bungee cords. The ultimate tensile strength is reached when the applied load reaches a maximum before failure. Test results shall be readily available to the commissioner upon request.

63.4(4) *Jump harness and hardware.*

a. The harnesses, webbing, bindings, ropes and hardware shall be capable of supporting at least five times the rated capacity or maximum intended load.

b. A jumper shall be secured to the bungee cord at two separate points on the jumper's body. The jump harness system shall be one of the following:

- (1) A full body harness with two different and separate attachment points.
- (2) A waist harness used with a shoulder harness.
- (3) An ankle harness system with a safety line to a waist harness or a full body harness.

c. Harnesses shall be available to fit the range of patron sizes accepted for jumping.

d. Harnesses shall be specifically designed and manufactured for mountaineering or bungee jumping.

e. The load-supporting slings or webbing shall be flat or tubular mountaineering webbing or its equivalent. Minimum breaking strength shall be 6,000 pounds. Slings or webbings shall be formed by sewing or shall be tied properly with a water knot with taped ends.

f. Carabiners shall be the steel screw, gate type with a minimum breaking strength of 6,000 pounds. The carabiners shall be designed and constructed using the standards for mountaineering gear.

g. The ropes, pulleys and shackles used to raise, lower or hold the jumper shall have a minimum breaking strength of 6,000 pounds. The pulleys shall be compatible with the rope.

h. The rigging system shall be attached to at least two rigging system attachment points. Each rigging system attachment point shall meet or exceed the following:

- (1) Each rigging system attachment point shall have a safety factor of 5 and shall be capable of bearing a weight of at least 8,000 pounds.
- (2) If a rigging system attachment point is made of wire rope, it shall have swaged ends with the thimble eyes.
- (3) If a rigging system attachment point is made of webbing, it shall be manufactured by a company that manufactures the devices for crane and rigging companies.

63.4(5) *Landing area, recovery area and jump area.*

a. A jump over land requires the use of an air bag certified by the manufacturer to be capable of protecting a body falling from the height of the jump point.

- (1) The minimum impact surface area of the air bag shall be as follows:

Jump Height	Minimum Impact Surface Area
0 - 99 feet	20 feet by 25 feet
100 - 149 feet	23 feet by 35 feet
150 - 200 feet	25 feet by 40 feet

- (2) The air bag shall be in position before jumper preparation begins on the platform.

- (3) Upon completion of a jump, the jumper shall be lowered into the landing area.

- (4) The landing area shall be free of spectators at all times.

(5) The jump space shall be free of equipment and people when a jumper is being prepared on the jump platform and until the jumper lands in the landing area.

(6) A place for the jumper to sit and recover shall be provided close to, but outside, the landing area.

b. The following requirements apply where a body of water is used instead of an air bag:

(1) The size of the body of water shall meet the requirements for the minimum impact surface area set forth in this subrule for air bags.

- (2) The minimum water depth of the minimum impact surface area shall be 10 feet.

(3) A vessel with at least two staff members shall be positioned nearby to recover jumpers. The recovery vessel's crew shall wear U.S. Coast Guard-approved life jackets. The recovery vessel shall be equipped with U.S. Coast Guard-approved life jackets for jumpers and with rescue equipment.

(4) The jump area shall be free of other vessels, floating or submerged objects, the public, and spectators. When the landing area is in open waters, it shall be defined by the deployment of buoys. Signs of appropriate size stating "BUNGEE JUMPING—KEEP CLEAR" shall be displayed.

c. The following requirements apply where a pool of water is used instead of an air bag:

(1) The pool size shall meet the requirements for the minimum impact surface area set forth in this subrule for air bags.

(2) The minimum water depth shall be 10 feet.

(3) Rescue equipment shall be available.

(4) Only the operators and participants of the bungee jump shall be within the landing area.

(5) The landing area shall be enclosed by a fence of adequate height and design to prevent persons other than operators and jumpers from entering.

(6) The pool shall conform to any applicable requirements enforced by the Iowa department of public health.

[ARC 2428C, IAB 3/2/16, effective 4/6/16; see Delay note at end of chapter]

875—63.5(88A) Maintenance. The operator shall follow the inspection and testing recommendations of the equipment manufacturers. When those recommendations conflict with the testing and inspection provisions of this rule, the provisions affording the higher degree of safety shall be followed. Inspections, findings and corrective action shall be recorded in the site log.

63.5(1) Tests and inspections by the operator.

a. The jump rigging, harness, lowering system and safety gear shall be regularly inspected and tested as set forth in the site operating manual.

b. In accordance with the site operating manual, the ropes, webbing and bindings shall be inspected visually and by feel for signs of wear, fraying or damage.

c. The cord ends shall be inspected as often as the manufacturer specifies or no less than daily for wear, slippage or other abnormalities.

63.5(2) Replacement of rigging and equipment.

a. Hardware that displays surface damage shall be replaced immediately.

b. Hardware that has been subjected to an abnormal loading or impact against hard surfaces shall be replaced immediately.

c. Substandard equipment, rigging or personal protective equipment shall be replaced immediately.

d. Bungee cords shall be replaced when they have been subjected to the maximum number of jumps recommended by the manufacturer, when they exhibit deterioration or damage, or when they do not react according to specifications. Retired bungee cords shall be cut into lengths of not more than 75 inches. The attachment points shall be retired when the cord is retired.

63.5(3) Replacement equipment. Replacement equipment shall be stored in a secure area to prevent tampering or vandalism. Replacement equipment for the following shall always be available on the approved operating site:

a. Bungee cords;

b. Rigging ropes;

c. Binding and ankle straps for jumpers;

d. Jump harnesses; and

e. Lifelines and clips.

63.5(4) Identification of equipment.

a. Each bungee cord shall have its own permanent identification number.

b. The form of identification may not damage or detract from the integrity of the material.

c. The identification shall be clearly visible to the operators during daily operations.

d. The identification of each piece of equipment shall be recorded in the site operating manual.
[ARC 2428C, IAB 3/2/16, effective 4/6/16; see Delay note at end of chapter]

875—63.6(88A) Operations.

63.6(1) *Site operating manual.* The operator shall ensure that the site has an operating manual that includes the following elements:

- a. A site plan showing the fencing, the site furniture, the preparation area, the jump space, the jump area, the jump direction, the landing area and the recovery area.
- b. A site plan showing a profile of the site and defining the jump platform and its supporting structure, the maximum system length of the bungee cord, the jump space and the jump area.
- c. A complete description of each of the following:
 - (1) The system of operation;
 - (2) The components in the rigging system, including the manufacturer's specification or a laboratory test certificate of each component;
 - (3) All safety and rescue equipment;
 - (4) A job description for the personnel employed on the site and the minimum qualifications for each person;
 - (5) Emergency procedures for all foreseeable scenarios;
 - (6) Standard operating procedures for every person employed in processing the jumper;
 - (7) The procedure for reporting accidents and reportable incidents to the commissioner;
 - (8) Equipment inspection procedures, including inspection record keeping;
 - (9) Maintenance procedures; and
 - (10) The method of verifying and recording each jump master's qualifications.

63.6(2) *Emergency provisions and procedures.*

- a. Each approved operating site shall have a written emergency plan. The plan shall be made available to any local emergency service responsible for providing emergency rescue service.
- b. At least one member of a bungee jump operation staff shall have current first-aid and cardiopulmonary resuscitation certification and shall complete an annual refresher course that includes evaluation of hands-on skills from the American Red Cross or equivalent.
- c. For a jump over water, the jump master and at least one landing assistant shall have current lifeguarding certification from the American Red Cross or equivalent.
- d. Emergency lighting shall be available in case of power failure at a site that operates at any time during the period of one-half hour prior to sunset until one-half hour after sunrise. The emergency lighting system shall be capable of lighting the jump platform, the jump space and the landing area. The emergency lighting system shall have its own power source.
- e. A backup means of communication shall be available in case of a power failure.
- f. The jump master or operator shall cease jumping operations if wind speed exceeds 25 miles per hour or thunder is audible.

63.6(3) *Minimum staff requirements.*

- a. Prior to the opening of a bungee jump operation, the operator shall train site personnel to be familiar with the boundaries of the jump space, the jump area, the site operating manual and the emergency plan.
- b. A bungee jump operation shall have at least one jump master, one jump assistant, one landing assistant, and one registration assistant present at all times during which jumping is being conducted.
- c. The staff shall be easily identifiable by their clothing.
- d. Staff shall be briefed for each day's operations. This briefing shall include assignment of the designated jump master.
- e. Each jump shall be directly controlled by a jump master.

63.6(4) *Jump master.*

- a. A jump master shall be at least 18 years of age, shall have assisted at least 25 jumpers, and shall have received a minimum of 30 hours of jump training.

b. A jump master shall have a thorough knowledge of the bungee jump site, its equipment, operating manual, procedures, emergency plan and staff duties.

c. A jump master shall:

- (1) With the jump assistant, escort the jumper from the preparation area to the jump point;
- (2) Select the appropriate bungee cord and adjust the rigging for each jump;
- (3) Brief each jumper on the procedures for jumping, landing, lowering and recovery;
- (4) Take the jumper through the final stages before the jump;
- (5) Securely attach to the platform rigging bar or to the rigging the top end of the bungee cords before preparing the jumper;
- (6) Be present at the jump point during each jump;
- (7) Close the platform gate while no jumper is present;
- (8) Direct the operation of the lowering system;
- (9) Train other bungee jump operation staff; and
- (10) Ensure that the procedures set out in the site operating manual are followed.

63.6(5) *Jump assistant.* The operator or jump master shall designate at least one individual to act as a jump assistant. The jump assistant shall:

- a. With the jump master, escort the jumper from the preparation area to the jump point;
- b. Assist the jump master in preparing the jumper;
- c. Assist in attaching the jumper to the harness and rigging;
- d. Perform check procedures;
- e. Operate the lowering system; and
- f. Assist in controlling the public.

63.6(6) *Landing assistant.* The operator or jump master shall designate at least one individual to act as a landing assistant. The landing assistant's duties include the following:

- a. Assisting the jumper to the landing pad;
- b. Assisting the jumper to the recovery area;
- c. Overseeing the recovery of the jumper; and
- d. Assisting in controlling the public.

63.6(7) *Registration assistant.* The operator or jump master shall designate at least one individual to act as a registration assistant at each bungee jump operation site. The registration assistant shall:

- a. Register the jumper;
- b. Inform each jumper that there are medical conditions that could be adversely affected by bungee jumping and that prior to jumping, the jumper should consult with a physician for more specific information regarding the medical risks;
- c. Weigh the jumper and mark the jumper's weight on the jumper;
- d. Control the movement of the jumper to the jump platform; and
- e. Assist in controlling the public.

63.6(8) *Jumper restrictions.*

- a. The minimum age for jumping is 18 years of age.
- b. A person who is visibly intoxicated or who is otherwise impaired shall not be allowed to jump.

63.6(9) *Jumper registration.* The operator shall ensure that a jumper provides the following information on the operator's registration form:

- a. The jumper's contact information, including name, address, and telephone number.
- b. The jumper's age and weight.

63.6(10) *Equipment replacement.*

- a. Jumping shall cease immediately when substandard equipment is identified.
- b. The operator shall obtain from the bungee cord manufacturer a written verification of the maximum number of jumps for which a particular cord may be used. The written verification shall be kept on site and shall be available to the commissioner.

c. The operator shall keep a current, written record of each bungee cord used at the site. The bungee cord records shall be organized by permanent, unique identification number and shall include the number of jumps for each cord by date. The bungee cord records shall be available to the commissioner.

63.6(11) *Jump space and jump area.*

a. Persons other than a jumper and objects other than the jumper's equipment shall not be in the jump space at any time during jump operations.

b. Persons other than site personnel and objects other than air bags and similar safety devices shall not be in the jump area at any time during jump operations.

c. The jump space and jump area shall be identical to the jump space and jump area that the commissioner approved.

d. The preparation area shall be separate from the jump area.

[ARC 2428C, IAB 3/2/16, effective 4/6/16; see Delay note at end of chapter]

These rules are intended to implement Iowa Code chapter 88A.

[Filed ARC 2428C (Notice ARC 2354C, IAB 1/6/16), IAB 3/2/16, effective 4/6/16]¹

¹ April 6, 2016, effective date of Chapter 63 [ARC 2428C] delayed 70 days by the Administrative Rules Review Committee at its meeting held March 4, 2016.

CHAPTER 72

CONVEYANCES INSTALLED ON OR AFTER JANUARY 1, 1975

[Prior to 9/24/86, Labor, Bureau of [530]]

[Prior to 10/21/98, see 347—Ch 72]

875—72.1(89A) Purpose and scope. This chapter contains safety standards covering the design, construction, installation, operation, inspection, testing, maintenance, alteration and repair of conveyances installed on or after January 1, 1975. The rules of this chapter also apply to previously dormant conveyances that are being reactivated, and to reinstalled or moved conveyances. As used in this rule, the word “installation” refers to the date on which a conveyance contractor enters into a contractual agreement pertaining to a conveyance.

72.1(1) For installations between January 1, 1975, and December 31, 1982, ANSI A17.1 shall mean ANSI A17.1 (1971).

72.1(2) For installations between January 1, 1983, and December 31, 1992:

- a. ANSI A17.1 shall mean ANSI A17.1 (1981); and
- b. ANSI A117.1 shall mean ANSI A117.1 (1980).

72.1(3) For installations between January 1, 1993, and December 31, 2000:

- a. ASME A17.1 shall mean ASME A17.1 (1990) and in addition shall mean the following:
 - (1) ASME A17.1b (1992), Rule 110.11h, for electric elevators installed between July 1, 1993, and December 31, 2000, and
 - (2) ASME A17.1b (1992), Rule 110.11h that is referenced by Rule 300.11, for hydraulic elevators installed between July 1, 1993, and December 31, 2000.

- b. ANSI/NFPA 70 shall mean ANSI/NFPA 70 (1990); and
- c. ANSI A117.1 shall mean ANSI A117.1 (1980).

72.1(4) For installations between January 1, 2001, and December 31, 2003:

- a. ASME A17.1 shall mean ASME A17.1 (1996 through the 1999 addenda);
- b. ASME A18.1 shall mean ASME A18.1 (1999), except Chapters 4, 5, 6, and 7;
- c. ANSI A117.1 shall mean ANSI A117.1 (1998); and
- d. ANSI/NFPA 70 shall mean ANSI/NFPA 70 (1999).

72.1(5) For installations between January 1, 2004, and April 4, 2006:

- a. ASME A17.1 shall mean ASME A17.1 (2000 through the 2003 addenda);
- b. ASME A18.1 shall mean ASME A18.1 (1999 through the 2001 addenda), except Chapters 4, 5, 6, and 7;
- c. ANSI A117.1 shall mean ANSI A117.1 (1998); and
- d. ANSI/NFPA 70 shall mean ANSI/NFPA 70 (2002).

72.1(6) For installations between April 5, 2006, and July 22, 2008:

- a. ASME A17.1 shall mean ASME A17.1-2004, A17.1a-2005 and A17.1S-2005;
- b. ASME A18.1 shall mean ASME A18.1 (2003), except Chapters 4, 5, 6, and 7;
- c. ANSI A117.1 shall mean ANSI A117.1 (2003), except for Rule 407.4.6.2.2; and
- d. ANSI/NFPA 70 shall mean ANSI/NFPA 70 (2005).

72.1(7) For installations between July 23, 2008, and July 18, 2012:

- a. ASME A17.1 shall mean ASME A17.1-2007/CSA B44-07;
- b. ASME A17.7 shall mean ASME A17.7-2007/CSA B44-07;
- c. ASME A18.1 shall mean ASME A18.1 (2003), except Chapters 4, 5, 6, and 7;
- d. ANSI A117.1 shall mean ANSI A117.1 (2003), except for Rule 407.4.6.2.2; and
- e. ANSI/NFPA 70 shall mean ANSI/NFPA 70 (2005).

72.1(8) For installations between July 19, 2012, and January 30, 2014:

- a. ASME A17.1 shall mean ASME A17.1-2010/CSA B44-10, except for Rule 2.27.1.1.6;
- b. ASME A17.7 shall mean ASME A17.7-2007/CSA B44-07;
- c. ASME A18.1 shall mean ASME A18.1 (2003), except Chapters 4, 5, 6, and 7;
- d. ANSI A117.1 shall mean ANSI A117.1 (2003), except for Rule 407.4.6.2.2; and
- e. ANSI/NFPA 70 shall mean ANSI/NFPA 70 (2008).

72.1(9) For installations between January 31, 2014, and January 14, 2015:

- a. ASME A17.1 shall mean ASME A17.1-2010/CSA B44-10, except for Rule 2.27.1.1.6;
- b. ASME A17.7 shall mean ASME A17.7-2007/CSA B44-07;
- c. ASME A18.1 shall mean ASME A18.1 (2011), except Chapters 4, 5, 6, and 7;
- d. ANSI A117.1 shall mean ANSI A117.1 (2003), except for Rule 407.4.6.2.2; and
- e. ANSI/NFPA 70 shall mean ANSI/NFPA 70 (2008).

72.1(10) For installations on or after January 14, 2015:

- a. ASME A17.1 shall mean ASME A17.1-2013/CSA B44-13;
- b. ASME A17.7 shall mean ASME A17.7-2007/CSA B44-07;
- c. ASME A18.1 shall mean ASME A18.1 (2011), except Chapters 4, 5, 6, and 7;
- d. ANSI A117.1 shall mean ANSI A117.1 (2003), except for Rule 407.4.6.2.2; and
- e. ANSI/NFPA 70 shall mean ANSI/NFPA 70 (2011).

[ARC 7840B, IAB 6/17/09, effective 7/22/09; ARC 8759B, IAB 5/19/10, effective 6/23/10; ARC 0168C, IAB 6/13/12, effective 7/18/12; ARC 1232C, IAB 12/11/13, effective 1/31/14; ARC 1766C, IAB 12/10/14, effective 1/14/15; ARC 1971C, IAB 4/29/15, effective 6/3/15]

875—72.2(89A) Definitions. The definitions contained in ASME A17.1, ASME A18.1, ANSI A117.1, and any other standard adopted herein by reference shall be applicable as used in this chapter to the extent that the definitions do not conflict with the definitions contained in Iowa Code chapter 89A and these rules. However, the definition of “building code” in ASME A17.1 is modified to exclude the Building Construction and Safety Code (NFPA 5000) and the National Building Code of Canada (NBCC) for any installation after March 1, 2008.

[ARC 7840B, IAB 6/17/09, effective 7/22/09]

875—72.3(89A) Accommodating the physically disabled. All passenger elevators installed between January 1, 1975, and December 31, 1982, which are available and intended for public use shall be usable by the physically disabled. All passenger elevators shall have control buttons with identifying features for the benefit of the blind and shall allow for wheelchair traffic. All passenger elevators and wheelchair lifts installed on or after January 1, 1983, which are accessible to the general public shall comply with Accessible and Usable Buildings and Facilities ANSI A117.1, sections 407 and 408.

875—72.4(89A) Electric elevators. The provisions contained in ASME A17.1, part 2, are adopted by reference.

875—72.5(89A) Hydraulic elevators. The provisions contained in ASME A17.1, part 3, are adopted by reference.

875—72.6(89A) Power sidewalk elevators. The provisions contained in ASME A17.1, section 5.5, are adopted by reference.

875—72.7(89A) Performance-based safety code. Conveyances may comply with ASME A17.7, in whole or in part, as an alternative to ASME A17.1.

875—72.8(89A) Hand and power dumbwaiters. The provisions contained in ASME A17.1, sections 7.1, 7.2, 7.3, and 7.8, are adopted by reference.

875—72.9(89A) Escalators and moving walks. The provisions contained in ASME A17.1, part 6, are adopted by reference, except for those portions that allow an operating or safety device to reset automatically.

[ARC 1766C, IAB 12/10/14, effective 1/14/15]

875—72.10(89A) General requirements.

72.10(1) The provisions contained in ASME A17.1, Part 8, are adopted by reference unless specifically excluded herein.

72.10(2) Except as noted in this rule, the American Society of Mechanical Engineers Safety Code for Existing Elevators and Escalators, A17.3 (2011), is adopted by reference with an enforcement date of May 1, 2020.

a. If a code provision that is more restrictive than A17.3 (2011) applied to a conveyance when the conveyance was installed, the more restrictive provision shall remain in effect.

b. A17.3 (2011) Part X applies to handicapped restricted use elevators without regard to the scope provisions set forth in A17.3 (2011) Part X.

c. Provisions of A17.3 (2011) that require installation of a new controller to implement Phase 1 and Phase 2 fire service or car top operation are not adopted by reference and shall not be enforced in Iowa.

d. A17.3 (2011), Rule 2.3.2, is intended to prevent the accumulation of sewer gas in an elevator pit and shall not be interpreted to require the addition of a drain pipe in an existing pit. An air gap in an existing drain pipe shall be considered adequate compliance.

e. An elevator that was legally installed with guide rails made of materials other than steel shall not be required to replace the guide rails due to the adoption of A17.3 (2011).

[ARC 1891C, IAB 3/4/15, effective 4/8/15]

875—72.11(89A) Acceptance and periodic tests and inspections of elevators, dumbwaiters, escalators and moving walks. Rescinded IAB 6/17/09, effective 7/22/09.

875—72.12(89A) Wind tower lifts. Wind tower lifts authorized by this rule shall not be installed in grain elevators, high-rise buildings, water towers, television towers or any facility other than a wind tower built for the production of electricity. This rule applies to all wind tower lifts, whether installed before or after May 28, 2008; however, this exception shall not apply to a wind tower lift if the contract for its installation is executed after an AECO is accredited.

72.12(1) Wind tower lifts that meet the requirements of subrules 72.12(2) through 72.12(10) are exempt from the requirements of ASME A17.1. This temporary exemption shall terminate for a wind tower lift upon the occurrence of at least one of the following events:

a. Three weeks have passed since the accreditation of at least one AECO, and the manufacturer of the wind tower lift has not filed with the labor commissioner an affidavit attesting that a request for Certificate of Conformance as described by ASME A17.7 (2007) was submitted to an AECO.

b. The AECO has reviewed a request pursuant to ASME A17.7 and refused to issue a Certificate of Conformance for the model or series of lifts.

c. The AECO has determined that modifications to the wind tower lift are necessary, and the modifications have not been made with reasonable diligence.

d. The AECO has determined that modifications to the wind tower lift are necessary, and the labor commissioner determines the wind tower lift is not safe to operate prior to completion of the modifications.

e. The AECO has reviewed an application pursuant to ASME A17.7 and issued a Certificate of Conformance for the model or series of lifts.

72.12(2) A wind tower lift placed in operation on or before May 28, 2008, shall be registered by the owner with the labor commissioner no later than July 1, 2008, and shall pass an installation inspection by inspectors employed by the labor commissioner according to the schedule set by the labor commissioner. The wind tower lift shall receive a periodic inspection by the labor commissioner's inspectors annually thereafter.

72.12(3) The owner of a wind tower lift installed after May 28, 2008, shall register the wind tower lift with the labor commissioner prior to its installation. A wind tower lift installed after May 28, 2008, shall pass an installation inspection by the labor commissioner's inspectors prior to its being placed into operation. The wind tower lift shall receive a periodic inspection by the labor commissioner's inspectors annually thereafter.

72.12(4) Registration pursuant to this rule requires submission of the following information to the labor commissioner:

- a. The unique identifier of the wind tower.
- b. The name of the wind tower owner and contact information for the owner's representative.
- c. The name of the wind tower lift manufacturer and contact information for the manufacturer's representative.
- d. The location of the wind farm.
- e. Three copies of the prints and design documents that are certified by a professional engineer duly licensed in the state of Iowa and that bear the professional engineer's P.E. stamp for the lifts.
- f. The manufacturer's complete test procedures, inspection checklists, operating manual, service manual, and related documents as determined necessary by the labor commissioner.

72.12(5) The owner shall notify the labor commissioner within 30 days of any change in the information provided pursuant to 72.12(4) "b" and "c."

72.12(6) This subrule establishes reporting requirements in addition to the requirements of rule 875—71.3(89A). The manufacturer of a lift must notify the labor commissioner in writing within one week if one of its wind tower lifts anywhere in the world is involved in a personal injury accident requiring the service of a physician, a personal injury accident causing disability exceeding one day or death, or an incident causing property damage exceeding \$2,000. The notification shall specifically identify the model number, serial number, and owner of the lift, and a description of the incident or accident. The labor commissioner shall determine and require necessary inspections, tests, changes or enhancements to prevent a similar incident or accident in this state.

72.12(7) Wind tower lifts must comply with 29 CFR 1910.

72.12(8) The manufacturer shall notify the labor commissioner within seven days of notification to the manufacturer that an AECO has:

- a. Issued a Certificate of Conformance for the model or series of wind tower lifts,
- b. Refused to issue a Certificate of Conformance for the model or series of wind tower lifts, or
- c. Determined that modifications to the wind tower lifts are necessary.

72.12(9) Wind tower lifts shall pass an inspection covering the following criteria:

- a. Ascending speed, descending speed, and emergency descending speed shall not exceed the manufacturer's recommendations.
- b. Stop switch, interior lighting, cage entry door, door contact, operating controls and remote operating controls shall operate according to manufacturer's recommendations.
- c. Interior floor and cage framework shall appear to be structurally sound.
- d. Enclosure signage recommended by the manufacturer shall be in place.
- e. Manufacturer's data plate shall be visible.
- f. Hoisting mechanism shall appear to be structurally sound and intact from inside and outside the car.
- g. Guide shoes shall appear to be structurally sound and undamaged.
- h. Suspended power cords and strain relief devices shall reveal no visible damage.
- i. Upper and lower normal and final limits shall operate according to the manufacturer's recommendations.
- j. Overspeed device shall successfully pass a full-load test.
- k. Overload device shall successfully pass an overload test according to the manufacturer's recommendations.
- l. Wire rope, safety rope, and guide rope shall show no evidence of wear.
- m. Guide rope attachments, suspension attachment beam, beam tower attachments, suspension rope attachment, suspension rope secondary attachment (if present), and guide wire rope attachments shall show no evidence of wear or fatigue.
- n. The wind tower lift shall not drift when subjected to a static full load.
- o. Maintenance logs, tags, and other necessary documentation shall be available in sufficient detail to establish that maintenance is occurring pursuant to the manufacturer's schedule.
- p. Guide rope tension device, safety rope tension device, and suspension rope tension device shall pass a visual test for proper tension.
- q. Power cord catch basket shall pass a visual inspection.

r. Safety set distance, overspeed trip speed, overload limit setting, and maximum overload allowed shall not exceed manufacturer's recommendations.

s. A communication device, if installed in the car, shall be operable.

t. Any other items on the manufacturer's recommended inspection checklist shall pass inspection.

72.12(10) The owner or owner's representative shall provide weights as needed to perform necessary tests during inspections.

875—72.13(89A) Alterations, repairs, replacements and maintenance.

72.13(1) General. Except as set forth in this rule, all maintenance, repairs, replacements, and alterations shall comply with the edition of ASME A17.1 currently adopted for new conveyances at rule 875—72.1(89A) or ASME A17.7-2007/CSA B44-07, as applicable. Rule 875—71.10(89A) describes alterations which require that the entire conveyance be brought into compliance with the most current codes.

72.13(2) Exemption for button renumbering. All maintenance, repairs and alterations to devices covered by ANSI A117.1 shall comply with ANSI A117.1 (2003), except for Rule 407.4.6.2.2.

72.13(3) Sump pump exemption. The provisions of ASME A17.1 that require a pit sump or drain shall not apply to an elevator alteration when all of the following criteria are met:

- a. No other code or rule requires that the pit be excavated or lowered.
- b. The alteration plans do not include the excavation or lowering of the pit floor for any other reason.
- c. There is evidence that groundwater has not entered the pit previously.
- d. The location and geology of the building indicate a likelihood that groundwater would enter the pit if the foundation or pit floor were breached to install the pit sump or drain.
- e. A description of alternative means to maintain the pit in a dry condition is provided to the labor commissioner with the alteration permit application.
- f. The labor commissioner approves the alternative means to maintain the pit in a dry condition.
- g. The alternative means to maintain the pit in a dry condition are installed or implemented as described in the alteration permit application.

72.13(4) Pit excavation exemption. The full length of the platform guard set forth in ASME A17.1, Rule 2.15.9.2(a), shall not be required if all of the following criteria are met:

- a. No other code or rule requires that the pit be excavated or lowered.
- b. The alteration plans do not include the excavation or lowering of the pit floor for any other reason.
- c. A full-length platform guard would strike the pit floor when the elevator is on its fully compressed buffer.
- d. The clearance between the bottom of the platform guard and the pit floor is 2.5 centimeters (1 inch) when the elevator is on its fully compressed buffer.

72.13(5) Sprinkler retrofits and shunt trip breakers. When a sprinkler is added to a hoistway or machine room, the conveyance shall comply with the following:

- a. The installation shall comply with the applicable version of ASME A17.1, Rule 2.8.3.3.
- b. The elevator controls shall be arranged to comply with the phase I fire recall provisions of the applicable version of ASME A17.1, Rule 2.27.3.
- c. The applicable version of ASME A17.1 shall be determined by reference to rule 875—72.1(89A). For purposes of rule 875—72.13(89A), the relevant subrule of 875—72.1(89A) shall apply based on the date the sprinkler is installed instead of the date the conveyance was installed.

72.13(6) Alterations of handicapped restricted use elevators. A component of a handicapped restricted use elevator being altered shall comply with the portions of ASME A17.1, section 5.3, applicable to the component. The edition of ASME A17.1 adopted by reference in rule 875—72.1(89A) shall be applied.

[ARC 7840B, IAB 6/17/09, effective 7/22/09; ARC 1766C, IAB 12/10/14, effective 1/14/15; ARC 2396C, IAB 2/17/16, effective 3/23/16]

875—72.14(89A) Design data and formulas. Rescinded IAB 11/26/03, effective 1/1/04.

875—72.15(89A) Power-operated special purpose elevators. The provisions contained in ASME A17.1, section 5.7, are adopted by reference.

875—72.16(89A) Inclined and vertical wheelchair lifts. The provisions contained in ASME Safety Standard for Platform Lifts and Stairway Chairlifts A18.1, sections 1, 2, 3, 8, 9, and 10, are adopted by reference for all inclined and vertical wheelchair lifts.

875—72.17(89A) Hand-powered elevators. Hand-powered elevators shall not be installed after January 1, 1983.

875—72.18(89A) Accommodating the physically disabled. Renumbered as 875—72.3(89A), IAB 11/26/03, effective 1/1/04.

875—72.19(89A) Limited-use/limited-application elevators. The provisions contained in ASME A17.1, section 5.2, are adopted by reference.

875—72.20(89A) Rack and pinion, screw-column elevators. The provisions contained in ASME A17.1, sections 4.1 and 4.2, are adopted by reference.

875—72.21(89A) Inclined elevators. The provisions contained in ASME A17.1, section 5.1, are adopted by reference.

875—72.22(89A) Material lift elevators. The provisions contained in ASME A17.1, Sections 7.4 and 7.5, are adopted by reference for Type B material lift elevators installed on or after July 23, 2008. Material lift elevators used exclusively for the movement of materials are not subject to regulation under Iowa Code chapter 89A.

[Editorial change: IAC Supplement 2/18/15; see Note 1 at end of chapter]

875—72.23(89A) Elevators used for construction. The provisions contained in ASME A17.1, section 5.10, are adopted by reference only as they pertain to elevators utilizing permanent equipment in a permanent location.

875—72.24(89A) Construction personnel hoists. The provisions of American National Standards Institute (ANSI) A10.4-2007 are adopted by reference for construction personnel hoists as defined by ANSI A10.4-2007. Notwithstanding the ANSI definition, these conveyances may be used only temporarily during construction.

875—72.25(89A) Alarm bell. An automatic passenger elevator shall be provided with an alarm bell that is activated by a switch marked “ALARM” located in or adjacent to the car operating panel. The alarm bell shall be audible inside the car and outside the hoistway.

[ARC 0950C, IAB 8/21/13, effective 9/25/13]

875—72.26(89A) Child entrapment safeguards. This rule applies to a passenger elevator unless it has a car door consisting of a solid panel.

72.26(1) For purposes of this rule, “distance with deflection between the doors or gates” means the distance between the closed car door or gate and the closed hoistway door or gate measured at the greatest perpendicular distance with deflection.

72.26(2) For purposes of this rule, measurements of door or gate deflection shall be made in the manner described by ASME A17.1, section 2.14.4.6.

72.26(3) Door or gate deflection shall not exceed .75 inch.

72.26(4) If the distance with deflection between the doors or gates exceeds 5 inches, a means shall be provided to disable the elevator if a person is in the space between the closed doors or gates.

[ARC 1972C, IAB 4/29/15, effective 6/3/15; ARC 2455C, IAB 3/16/16, effective 4/20/16]

875—72.27(89A) Handicapped restricted use elevators. All handicapped restricted use elevators must meet ANSI A17.1 (1981), Part V. Additionally, the elevators shall comply with the following limitations:

1. The elevator shall be used only by a maximum of one disabled person and one attendant at a time. Where a disabled person cannot operate the elevator in a manner which will ensure access to all operating controls and safety features, an attendant shall accompany the disabled person.
2. The elevator shall be key-operated and shall not be capable of being called by buttons or switches but may be called by a key operator.
3. Keys to operate the elevator shall be in the control of the disabled person, the attendant or persons in positions of responsibility at the location.
4. A list shall be maintained at the location indicating the persons holding keys for the operation of the elevator.
5. Each landing and the elevator car shall be posted to indicate that the elevator is only for the use of disabled persons.
6. The travel distance of the elevator shall not exceed 50 feet.

[ARC 1971C, IAB 4/29/15, effective 6/3/15]

These rules are intended to implement Iowa Code chapter 89A.

[Filed emergency 12/15/75, Notice 10/6/75—published 12/29/75, effective 12/15/75]

[Filed 7/28/82, Notice 5/26/82—published 8/18/82, effective 9/30/82]

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[Filed emergency 12/4/92 after Notice 9/30/92—published 12/23/92, effective 12/23/92]

[Filed 2/15/01, Notice 10/18/00—published 3/7/01, effective 4/11/01]

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[Filed 12/11/07, Notice 10/24/07—published 1/2/08, effective 2/6/08]

[Filed emergency 5/28/08—published 6/18/08, effective 5/28/08]

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[Filed 9/3/08, Notice 6/18/08—published 9/24/08, effective 10/29/08]

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[Filed ARC 0168C (Notice ARC 0011C, IAB 2/22/12), IAB 6/13/12, effective 7/18/12]

[Filed ARC 0950C (Notice ARC 0753C, IAB 5/29/13), IAB 8/21/13, effective 9/25/13]

[Filed ARC 1232C (Notice ARC 1108C, IAB 10/16/13), IAB 12/11/13, effective 1/31/14]

[Filed ARC 1766C (Notice ARC 1560C, IAB 7/23/14), IAB 12/10/14, effective 1/14/15]

[Editorial change: IAC Supplement 2/18/15]¹

[Filed ARC 1891C (Notice ARC 1771C, IAB 12/10/14), IAB 3/4/15, effective 4/8/15]

[Filed ARC 1971C (Notice ARC 1849C, IAB 2/4/15), IAB 4/29/15, effective 6/3/15]

[Filed ARC 1972C (Notice ARC 1853C, IAB 2/4/15), IAB 4/29/15, effective 6/3/15]

[Filed ARC 2396C (Notice ARC 2264C, IAB 11/25/15), IAB 2/17/16, effective 3/23/16]

[Filed ARC 2455C (Notice ARC 2356C, IAB 1/6/16), IAB 3/16/16, effective 4/20/16]

¹ Adopted language of rule 875—72.22(89A) [ARC 6854B, 6/18/08] editorially restored IAC Supplement 2/18/15.

CHAPTER 73
CONVEYANCES INSTALLED PRIOR TO JANUARY 1, 1975

[Prior to 9/24/86, Labor, Bureau of [530]]

[Prior to 10/21/98, see 347—Ch 73]

875—73.1(89A) Scope, definitions, and schedule.

73.1(1) This chapter establishes minimum safety standards for all conveyances installed prior to January 1, 1975, except material lift elevators. Conveyances installed on or after January 1, 1975, shall conform with the requirements set forth in 875—Chapter 72. Material lift elevators installed prior to January 1, 1975, are not subject to regulation pursuant to Iowa Code section 89A.2.

73.1(2) The definitions contained in American National Standard Safety Code for Elevators, Dumbwaiters, Escalators, and Moving Walks, A17.1 (1971), shall be applicable as used in this chapter to the extent that they do not conflict with the definitions contained in Iowa Code chapter 89A or 875—Chapter 71.

73.1(3) Except as noted in this rule, the American Society of Mechanical Engineers Safety Code for Existing Elevators and Escalators, A17.3 (2011), is adopted by reference with an enforcement date of May 1, 2020.

a. If a code provision that is more restrictive than A17.3 (2011) applied to a conveyance when the conveyance was installed, the more restrictive provision shall remain in effect.

b. A17.3 (2011) Part X applies to elevators covered by rule 875—73.21(89A) without regard to the scope provisions set forth in A17.3 (2011) Part X.

c. Provisions of A17.3 (2011) that require installation of a new controller to implement Phase 1 and Phase 2 fire service or car top operation are not adopted by reference and shall not be enforced in Iowa.

d. A17.3 (2011), Rule 2.3.2, is intended to prevent the accumulation of sewer gas in an elevator pit and shall not be interpreted to require the addition of a drain pipe in an existing pit. An air gap in an existing drain pipe shall be considered adequate compliance.

e. The following shall substitute for the final sentence of A17.3 (2011) Rule 2.1.5(b): “Previously installed 60-inch chains are deemed to be in compliance.”

f. An elevator that was legally installed with guide rails made of materials other than steel shall not be required to replace the guide rails due to the adoption of A17.3 (2011).

73.1(4) The American Society of Mechanical Engineers Safety Code for Elevators and Escalators, A17.1-2013/CSA B44-13 (2013), Rule 2.14.7.1.4, is adopted by reference with an effective date of May 1, 2020.

73.1(5) Rules 875—73.2(89A) to 875—73.6(89A), 875—73.9(89A) to 875—73.17(89A), 875—73.19(89A), 875—73.22(89A), and 875—73.24(89A) and subrules 73.1(2), 73.7(1) to 73.7(9), 73.7(11), 73.18(1), and 73.18(3) to 73.18(7) shall be superseded by corresponding provisions of A17.3 (2011) on May 1, 2020.

[ARC 7840B, IAB 6/17/09, effective 7/22/09; ARC 1891C, IAB 3/4/15, effective 4/8/15]

875—73.2(89A) Hoistways.

73.2(1) Each passenger elevator hoistway landing shall be protected with a door or gate. The door or gate shall be of solid construction and shall guard the entire entrance.

73.2(2) All automatic passenger elevators with power doors shall have nonvision panels on hoistway doors.

73.2(3) Each hoistway landing in any elevator hoistway shall be continuously provided with a properly working door or gate.

73.2(4) Where freight elevator hoistway doors or gates are of open or lattice construction, they shall be at least 6 feet high and shall come within 2 inches of the floor when closed. Gates shall be constructed to reject a ball 2 inches in diameter. Doors and gates must be able to withstand 250 pounds of pressure applied in the center of the door or gate without breaking or being forced out of their guides.

73.2(5) Manually operated biparting entrances of elevators which can be operated from the landings shall be provided with pull straps on the inside and outside of the upper panel where the lower edge of the upper panel is more than 6 feet 6 inches above the landing when the panel is in the fully opened position.

73.2(6) All freight elevators having wooden hoistway gates in an area where power loading equipment, such as fork trucks, electric mules, etc. are used shall have an acceptable means to restrain the power equipment from running through such wooden gates.

73.2(7) Each hoistway door or gate shall be provided with interlocks designed to prevent the car from moving unless the doors or gates are closed. Where doors or gates do not lock when closed they shall lock when the elevator is not more than 12 inches away from the floor. Passenger elevator hoistway doors shall be closed and locked before the car leaves the floor.

73.2(8) All hoistway-door interlocks shall function as part of a hoistway-unit system.

73.2(9) Automatic fire doors shall not lock any landing opening in the hoistway enclosure from the hoistway side nor lock any exit leading from any hoistway landing to the outside of the building.

73.2(10) Emergency keys for hoistway doors and service keys shall be kept readily accessible to authorized persons and elevator safety inspectors.

73.2(11) Access means shall be provided at one upper landing to permit access to the top of the car, and at the lowest landing if this landing is the normal point of access to the pit.

73.2(12) Each hoistway door or gate which is counterweighted shall have its weights enclosed in a box-type guide or run in metal guides. The bottom of the guides or boxes shall be so constructed as to retain the counterweight if the counterweight suspension means breaks.

73.2(13) Hoistways containing freight elevators shall be fully enclosed. Enclosures shall be unperforated to a height of 6 feet above each floor or landing and above the treads of adjacent stairways. Unperforated enclosures shall be so supported and braced as to deflect not over 1 inch when subjected to a force of 100 pounds applied horizontally to any point. Open work enclosure may be used above the 6-foot level and shall reject a ball 2 inches in diameter.

73.2(14) Hoistways containing passenger elevators shall be fully enclosed and the enclosure shall be of solid construction to its full height.

73.2(15) All elevators that have automatic leveling, inching or teasing devices and that are configured with landing sills that project into the hoistway shall be equipped with a bevel on the underside of the landing sill or the underside of projections found on the bottom section of vertically opening biparting doors. Bevels shall be constructed of smooth concrete or not less than 16-gauge metal securely fastened to the hoistway entrance. Bevels shall extend the full depth of the leveling zone plus 3 inches.

73.2(16) Every hoistway window opening seven stories or less on an outside wall above a thoroughfare and every such window three stories or less above a roof of the building or of an adjacent building shall be guarded to prevent entrance by fire or emergency rescue persons. Each such window shall be marked "hoistway" in a readily visible manner.

[ARC 7840B, IAB 6/17/09, effective 7/22/09]

875—73.3(89A) Car enclosure: Passenger.

73.3(1) Each passenger car shall be fully enclosed except on the sides used for entrance and exit. The enclosure shall be of solid construction. Grillwork at the top of the sides shall not be more than 8 inches high. If the car is provided with a solid door and there is no grillwork in the enclosure, adequate means of ventilation shall be provided.

73.3(2) Each passenger car enclosure shall have a top constructed of solid material. The top shall be capable of sustaining a load of 300 pounds on any area of 2 feet on a side and 100 pounds applied at any point. Simultaneous application of these loads is not required.

73.3(3) Passenger car enclosure tops shall have an emergency exit with cover. Opening size shall be as set forth in ANSI A17.1, 1971, Rule 204.1E. Hydraulic elevators provided with a manual lowering valve are not required to provide an emergency exit.

73.3(4) Each passenger car shall have a door or gate at each entrance. Doors or gates shall be of the horizontally sliding type. Doors shall be of solid construction. Gates shall be of the collapsible type. Gates and doors shall conform to ANSI A17.1, 1971, Rule 204.4.

73.3(5) Each passenger car door or gate shall have an electric contact to prevent the car from running with doors or gates open. EXCEPTIONS:

- a. By a car-leveling or truck-zoning device.
- b. By a combination hoistway access switch and operating device.
- c. When a hoistway access switch is operated.

73.3(6) All automatic passenger elevators with power doors shall have reopening devices on the doors, designed to reopen doors in the event the doors should become obstructed.

73.3(7) Car door or gate closing force.

a. Where a car door or gate of an automatic or continuous-pressure operation passenger elevator is closed by power, or is of the automatically released self-closing type, and faces a manually operated or self-closing hoistway door, the closing of the car door or gate shall not be initiated unless the hoistway door is in the closed position. The closing mechanism shall be so designed that the force necessary to prevent closing of a horizontally sliding car door or gate from rest shall be not more than 30 pounds.

b. Paragraph 73.3(7) "a" does not apply when both of the following conditions are met:

- (1) A car door or gate is closed by power through continuous pressure of a door-closing switch or the car operating device, and
- (2) The release of the closing switch or operating device will cause the car door or gate to stop or to stop and reopen.

73.3(8) Each passenger car shall have lighting inside the enclosure of not less than 5 foot-candles. Bulbs and tubes shall be guarded to prevent breakage.

73.3(9) Each passenger elevator shall have a capacity plate prominently displayed in its enclosure. The capacity plate shall list its capacity in pounds.

73.3(10) All passenger elevator car floors shall be maintained so that persons are not exposed to the hazards of tripping or falling.

73.3(11) All automatic passenger elevators shall be provided with an alarm bell capable of being activated from inside the car and audible outside the hoistway. If the elevator is not equipped with a bell, a two-way conversation device to the elevator and a ready accessible point outside the hoistway may be acceptable.

73.3(12) All automatic passenger elevators shall have their door open zones adjusted so that the door shall not open unless the car has stopped within 6 inches of floor level.

[ARC 7840B, IAB 6/17/09, effective 7/22/09]

875—73.4(89A) Car enclosure: Freight.

73.4(1) Each freight elevator car shall have a solid enclosure at least 66 inches in height. The space between the solid section and the car top shall be enclosed with solid material, perforated material, or latticework. Where used, perforated material or latticework shall reject a ball 1½ inches in diameter. The portion of open-type enclosure which passes the counterweights shall be of solid construction the entire width of the counterweights plus 6 inches on either side. The enclosure top shall be provided with an emergency exit, except for hydraulic elevators with manual lowering valves.

73.4(2) Each freight car enclosure shall have doors or gates at each entrance and shall be not less than 6 feet high. Each door or gate shall be constructed in accordance with ANSI A17.1, 1971, Rule 204.4.

73.4(3) Each car door or gate on a freight elevator shall have electric contacts to prevent the car from running with doors or gates open. EXCEPTIONS:

- a. By a car-leveling or truck-zoning device.
- b. By a combination hoistway access switch and operating device.
- c. When a hoistway access switch is operated.

73.4(4) Each freight elevator car enclosure shall be provided with a top. The top may be of solid or open-work construction and shall be of metal. The openwork shall reject a ball 2 inches in diameter.

Car tops shall be constructed to sustain a load of 200 pounds applied at any point on the car top. The top shall not have hinged or folding panels other than the emergency exit cover.

73.4(5) Each freight car enclosure shall have lighting not less than 2½ foot-candles. Bulbs or tubes shall be guarded to prevent breakage.

73.4(6) Each freight car enclosure shall have capacity plate, loading class plates, and a “No Passenger” sign conspicuously posted. Letters shall be not less than ½-inch high.

73.4(7) Freight elevators shall not be loaded to exceed the rated load as stated on their capacity plates.

73.4(8) Each freight elevator car floor shall be maintained so that personnel will not readily slip or trip. The floor shall be maintained so that it will hold its rated load without breaking through at any place in the car.

73.4(9) Freight elevators shall not be permitted to carry passengers other than the operator and persons to load and unload material.

[ARC 7840B, IAB 6/17/09, effective 7/22/09]

875—73.5(89A) Brakes.

73.5(1) Each electric elevator shall be provided with an electric brake.

73.5(2) Each brake shall be of the friction type applied by a spring or springs or gravity and released electrically. The brake shall be capable of holding the car at rest with its rated load.

875—73.6(89A) Machines.

73.6(1) Friction gearing or clutch mechanisms shall not be used for connecting the drum or sheaves to the main driving mechanism.

73.6(2) Set screw fastenings shall not be used on power elevators in lieu of keys or pins on connections subject to torque or tension.

73.6(3) Portable power-chain or cable hoist machines shall not be used to raise or lower an elevator car.

73.6(4) No belt or chain driven power machine shall be used for any elevator unless the machine is provided with a broken belt or broken chain safety switch of the electrical nonautomatic reset type. EXCEPTION: Hydraulic machines.

875—73.7(89A) Electrical protective devices.

73.7(1) All electric elevators shall have a labeled emergency stop switch. The switch shall be located on or adjacent to the operating panel.

73.7(2) All electric elevators shall have upper and lower final limit switches. Open-type switches shall not be accepted. Drum-type machines shall have final limit switches mounted on the machine and hoistway final limit switches.

73.7(3) All operating devices of car switch operations shall automatically return to the stop position and latch there when released.

73.7(4) Tiller-rope operations shall not be used unless all direction switches on controllers are mechanically operated. Contacts on direction switches shall be broken when the rope is at the centered position.

73.7(5) Except for firefighter service switches, leveling switches, and truck zone switches, no elevator shall be provided with a switch or device which makes more than one door or gate switch inoperative at any one time.

73.7(6) No person at any time shall make any required safety device or electrical protective device inoperative, except where necessary during tests, inspections or maintenance. Such devices shall be restored to their normal operating conditions as soon as all tests, inspections and maintenance have been completed. The conveyance shall not be left unattended while any of these devices are inoperative. To ensure that no jumpers are left behind, a counting system shall be utilized.

73.7(7) Each winding drum machine shall be provided with an electrical switch which shall disconnect power to the hoisting motor and brake when ropes are slackened.

73.7(8) No person shall enter an elevator pit for any reason without disconnecting power to the equipment using the pit stop switch, lockout, tagout procedures, or other appropriate means of de-energization in accordance with 875—Chapters 2 to 26.

73.7(9) Elevators having a polyphase AC power supply shall be provided with means to prevent the starting of the elevator drive motor or door motor if a reversal of phase rotation, or phase failure of the incoming polyphase AC power, will cause the elevator car or elevator door(s) to operate in the wrong direction.

73.7(10) All electrical equipment pertaining to the elevator shall conform to ANSI C1-1975 (NFPA 70-1975).

73.7(11) All electrical wiring in the machine room and hoistway shall be enclosed in metal conduit, flexible conduit or metal raceways.

[ARC 7840B, IAB 6/17/09, effective 7/22/09; ARC 1971C, IAB 4/29/15, effective 6/3/15]

875—73.8(89A) Maintenance, repairs and alterations.

73.8(1) General. Except as set forth in this rule, all maintenance, repairs and alterations shall comply with the edition of ASME A17.1 currently adopted for new conveyances at rule 875—72.1(89A) or ASME A17.7-2007/CSA B44-07, as applicable. Rule 875—71.10(89A) describes alterations which require that the entire conveyance be brought into compliance with the most current code.

73.8(2) Exemption for button numbering. All maintenance, repairs and alterations to devices covered by ANSI A117.1 shall comply with ANSI A117.1 (2003), except for Rule 407.4.6.2.2.

73.8(3) Sump pump exemption. The provisions of ASME A17.1 that require a pit sump or drain shall not apply to an elevator alteration when all of the following criteria are met:

- a. No other code or rule requires that the pit be excavated or lowered.
- b. The alteration plans do not include the excavation or lowering of the pit floor for any other reason.
- c. There is evidence that groundwater has not entered the pit previously.
- d. The location and geology of the building indicate a likelihood that groundwater would enter the pit if the foundation or pit floor were breached to install the pit sump or drain.
- e. A description of alternative means to maintain the pit in a dry condition is provided to the labor commissioner with the alteration permit application.
- f. The labor commissioner approves the alternative means to maintain the pit in a dry condition.
- g. The alternative means to maintain the pit in a dry condition are installed or implemented as described in the alteration permit application.

73.8(4) Pit excavation exemption. The full length of the platform guard set forth in ASME A17.1, Rule 2.15.9.2(a), shall not be required if all of the following criteria are met:

- a. No other code or rule requires that the pit be excavated or lowered.
- b. The alteration plans do not include the excavation or lowering of the pit floor for any other reason.
- c. A full-length platform guard would strike the pit floor when the elevator is on its fully compressed buffer.
- d. The clearance between the bottom of the platform guard and the pit floor is 2.5 centimeters (1 inch) when the elevator is on its fully compressed buffer.

73.8(5) Sprinkler retrofits and shunt trip breakers. When a sprinkler is added to a hoistway or machine room, the conveyance shall comply with the following:

- a. The installation shall comply with the applicable version of ASME A17.1, Rule 2.8.3.3.
- b. The elevator controls shall be arranged to comply with the phase I fire recall provisions of the applicable version of ASME A17.1, Rule 2.27.3.
- c. The applicable version of ASME A17.1 shall be determined by reference to rule 875—72.1(89A). For purposes of rule 875—73.8(89A), the relevant subrule of 875—72.1(89A) shall apply based on the date the sprinkler is installed instead of the date the conveyance was installed.

73.8(6) Safety bulkheads. Documentation from the manufacturer establishing that a safety bulkhead was installed shall establish compliance with ASME A17.1, Rule 8.6.5.8.

73.8(7) Alterations of handicapped restricted use elevators. A component of a handicapped restricted use elevator being altered shall comply with the portions of ASME A17.1, section 5.3, applicable to the component. The edition of ASME A17.1 adopted by reference in rule 875—72.1(89A) shall be applied.

[ARC 7840B, IAB 6/17/09, effective 7/22/09; ARC 1766C, IAB 12/10/14, effective 1/14/15; ARC 2396C, IAB 2/17/16, effective 3/23/16]

875—73.9(89A) Machine rooms.

73.9(1) All means of access to elevator machine rooms shall be of a permanent nature and shall be constructed and maintained in a clear and unobstructed manner.

73.9(2) The elevator machine and control equipment shall be located in a separate room or separated from other equipment by a substantial grill not less than 6 feet high. The grill shall be of a design that will reject a ball 2 inches in diameter. All rooms or enclosures shall have a self-closing and self-locking door.

73.9(3) All elevator machine rooms shall be provided with a floor. The floor shall cover the entire area of the machine room and hoistway.

73.9(4) Machine room floors shall be kept clean and free of grease and oil. Articles or materials not necessary for the maintenance or operation of the elevator shall not be stored therein. Storage of any equipment or materials in elevator machine rooms other than equipment directly related to elevator operation is prohibited.

73.9(5) Lighting in the machine room shall be not less than 10 foot-candles at floor level.

73.9(6) Where there is more than one machine in a room, each machine shall have a different number conspicuously marked on it. The controller, disconnecting means and relay panels for each machine shall be conspicuously numbered to correspond to the machine they control.

[ARC 7840B, IAB 6/17/09, effective 7/22/09]

875—73.10(89A) Pits.

73.10(1) All pits shall be kept clean and free of equipment or material not relating to the operation of the elevator. EXCEPTION: sump pumps.

73.10(2) Buffers under cars and counterweights shall be permanently fastened to the floor or their supporting beams.

73.10(3) All elevators shall have counterweight guards. Guards shall be of unperforated metal of at least the strength of or braced to the equivalent strength of number 14-gauge sheet steel. Guards shall extend from a point not more than 12 inches above the pit floor to a point not less than 7 feet above the pit floor. Where guards are not feasible, warning chains shall be installed on the bottom of the counterweights and shall extend no less than 5 feet below the counterweight. Chains shall be of a number 10 U.S. gauge wire or of equal size. EXCEPTION: When compensating chains or ropes are used, a counterweight guard is not required.

73.10(4) Buffers shall be installed where elevator pits are not provided with buffers and where the pit depth will permit. Buffers shall comply with ANSI A17.1, 1971, Section 201.

73.10(5) Where the depth of any pit is in excess of 4 feet it shall have a ladder permanently installed. The ladder shall extend not less than 30 inches above the sill of the access door, or hand grips shall be provided to the same height. Ladder shall be of noncombustible material.

[ARC 7840B, IAB 6/17/09, effective 7/22/09]

875—73.11(89A) Counterweights.

73.11(1) Broken or cracked sections of counterweights shall be replaced.

73.11(2) Counterweight hanger rods, tie rods or both shall firmly support and secure the counterweight sections in place.

73.11(3) Wire ropes extending through counterweights from one stack to another shall be guarded by metal sleeves attached to the wire ropes. Stacks shall not be spaced less than 8 inches apart.

875—73.12(89A) Car platforms and car slings.

73.12(1) All platforms shall be soundly constructed without cracks or breaks in stringers or frames. All floors shall be free of holes.

73.12(2) All car slings shall be soundly constructed and free of cracks or breaks.

73.12(3) Where cable sheaves are used on the crosshead, they shall be firmly attached and free of cracks or breaks.

73.12(4) All elevators shall have data plates attached to the crosshead.

73.12(5) All elevators with automatic leveling, inching or teasing devices shall have a platform guard or an apron. All other elevators shall have warning chains hung within 2 inches of the edge of the platform on the entrance sides. Chains shall be of number 10 U.S. gauge wire or of equal size. Chains shall extend not less than 5 feet below the platform and shall not be spaced more than 4 inches apart.

73.12(6) All car slings shall have guide shoes at the top and bottom of the sling. Shoes that are worn to a degree which affect the safe operation of the car shall be repaired or replaced.

875—73.13(89A) Means of suspension.

73.13(1) Suspension ropes on drum-type machines shall have not less than one turn of the rope on the drum when the car is resting on the fully compressed buffers.

73.13(2) Winding drum machines shall not be used unless they are provided with not less than two hoisting ropes. Each counterweight stack shall be provided with not less than two ropes.

73.13(3) Tiller cables on cable-operated elevators shall be kept free of breaks.

73.13(4) On tiller-cable operations, the cable shall pass through a guiding or stopping device mounted on the car. The cable shall be provided with adjustable stop balls and be provided with means to lock and hold the car at a floor. Stop balls at top and bottom shall be adjusted to automatically stop the car. The tiller cable shall be completely enclosed in the hoistway.

73.13(5) All hoisting or counterweight ropes located outside of the hoistway that are exposed shall be covered with a box-type guard. The guard shall be not less than 6 feet high from floor level.

73.13(6) Roller chains shall not be used as the suspension means for any conveyance except where specifically allowed by an applicable provision of ASME A17.1.

73.13(7) Hoisting ropes for power elevators shall not be less than 3/8 inch in diameter.

73.13(8) Hoisting rope fastening means shall be of the socket and babbiting type. Clamps shall not be used.

[ARC 7840B, IAB 6/17/09, effective 7/22/09]

875—73.14(89A) Car safeties and speed governors.

73.14(1) Each elevator suspended by ropes shall be provided with mechanically applied car safeties which shall be capable of stopping and sustaining its rated load.

73.14(2) Broken rope or slack rope safeties may be allowed if the car speed is not in excess of 50 FPM.

73.14(3) Elevators which are provided solely with broken rope or slack rope safeties shall not be used for passenger service. EXCEPTION: Handicapped restricted use elevators.

73.14(4) All safeties shall be adjusted so that clearances from the rail shall be in accordance with ANSI A17.1, 1971, Rule 1001.2.

73.14(5) All slack cable safeties shall be provided with an electrical switch which disconnects power to the elevator machine and brake when setting of the safeties occurs.

73.14(6) All safeties operated by a speed governor shall be provided with a speed switch operated by the governor when used with type B or C car safeties on elevators having a rated speed exceeding 150 FPM. A switch shall be provided on the speed governor when used with a counterweight safety for any car speed.

73.14(7) Speed governors shall have their means of speed adjustment sealed.

73.14(8) For hoistways not extending to the lowest floor and where space below the hoistway is used for a passageway or is occupied by persons, or if unoccupied but not secured against unauthorized access, the counterweights of the elevator shall be provided with safeties. Safeties shall be tripped by a

speed governor if the car speed is in excess of 150 FPM. Speed governors shall be set to trip above the car governor tripping speed but not more than 10 percent greater.

73.14(9) Access to a governor that is located inside a hoistway shall be provided in accordance with ASME A17.1-2007, Rule 2.7.6.3.4.

[ARC 7840B, IAB 6/17/09, effective 7/22/09; ARC 8760B, IAB 5/19/10, effective 6/23/10]

875—73.15(89A) Guide rails.

73.15(1) All guide rails and brackets whether of wood or steel shall be firmly and securely anchored or bolted in place. Where T rail is used, all fish-plate bolts shall be tight. This shall comply with ANSI A17.1, 1981, Section 200.

73.15(2) Where guide rails which are worn to such a point that proper clearance of safety jaws cannot be maintained, the worn sections shall be replaced to achieve clearances as specified in ANSI A17.1, 1971, Rule 1001.2.

[ARC 7840B, IAB 6/17/09, effective 7/22/09]

875—73.16(89A) Existing hydraulic elevators.

73.16(1) Cylinders of hydraulic-elevator machines shall be provided with a means for releasing air or other gas.

73.16(2) Each pump or group of pumps shall be equipped with a relief valve conforming to the following requirements:

a. Type and location. The relief valve shall be located between the pump and the check valve and shall be of such a type and so installed in the bypass connection that the valve cannot be shut off from the hydraulic system.

b. Setting. The relief valve shall be preset to open at a pressure not greater than that necessary to maintain 125 percent of working pressure.

c. Size. The size of the relief valve and bypass shall be sufficient to pass the maximum rated capacity of the pump without raising the pressure more than 20 percent above that at which the valve opens. Two or more relief valves may be used to obtain the required capacity.

d. Sealing. Relief valves having exposed pressure adjustments, if used, shall have their means of adjustment sealed after being set to the correct pressure.

EXCEPTION: No relief valve is required for centrifugal pumps driven by induction motors, provided the shut-off, or maximum pressure which the pump can develop, is not greater than 135 percent of the working pressure at the pump.

73.16(3) Storage and discharge tanks shall be covered and suitably vented to the atmosphere.

73.16(4) Hydraulic elevators shall be governed by the rules contained in Chapter 73 that apply to electric elevators except the following rules which are exempt: 73.5, 73.6(3), 73.7(2), 73.7(4), 73.7(7), 73.9(9), 73.10(3), 73.11, 73.13, and 73.14.

73.16(5) Rescinded IAB 3/7/01, effective 4/11/01.

875—73.17(89A) Existing sidewalk elevators.

73.17(1) Hoistways shall be permanently enclosed. The enclosures shall conform to ANSI A17.1, 1971, Rule 401.1.

73.17(2) All interior landings shall have a door or gate which shall be provided with an interlock.

73.17(3) Doors opening in sidewalks or other areas exterior to the building shall be of the hinged type. Doors or covers shall be designed to hold a static load of 300 pounds per square foot. Doors shall always be closed unless elevator is at the landing.

73.17(4) Stops shall be provided to prevent the cover in the opening of the sidewalk from opening more than 90 degrees from its closed position.

73.17(5) Covers in sidewalk shall be designed to close when the car descends from the top landing.

73.17(6) Recesses or guides which will securely hold the cover in place on the car stanchions shall be provided on the underside of the cover.

73.17(7) All electrical wiring shall be enclosed in metal conduit, flexible conduit or metal raceways. If hoistway opens in the sidewalk, the wiring shall be weatherproof.

73.17(8) Operating devices and control equipment shall comply with ANSI A17.1, 1971, Rule 402.4.

73.17(9) All electric sidewalk elevators shall have upper and lower final limit switches. Open-type switches shall not be allowed.

73.17(10) Cars shall have enclosures which shall be not less than 6 feet in height provided the stanchions and bow iron are of sufficient height. The enclosure shall be provided with electric contacts to prevent the car from running with doors or gates open.

73.17(11) Cars shall have safeties. Where the speed of the elevator does not exceed 50 FPM, car safeties which operate as a result of breaking or slackening of the hoisting ropes may be used. Such safeties may be of the inertia type or approved type without governors. Governors shall not be required when car speed does not exceed 50 FPM.

73.17(12) Car enclosures and car gates shall not be required for hand-powered sidewalk elevators.

73.17(13) Rescinded IAB 3/7/01, effective 4/11/01.

[ARC 7840B, IAB 6/17/09, effective 7/22/09]

875—73.18(89A) Existing hand elevators.

73.18(1) Hand-powered elevators shall have hoistway doors. Doors shall be of the self-closing and self-locking type.

73.18(2) A sign reading “Danger—Elevator Hoistway—Keep Closed” shall be mounted on each hoistway door. The letters on the signs shall be legible, shall be at least 2 inches high, and shall contrast with the background color.

73.18(3) All hand-powered elevators shall be provided with safeties or slack cable devices. Safeties do not have to be operated by a speed governor unless the speed is in excess of 50 FPM.

73.18(4) Hand-powered elevators shall have a car enclosure which shall be constructed of metal or sound seasoned wood. The enclosure shall cover all sides which are not used for entrance or exit. The enclosure shall be secured to the car platform or frame in such a manner that it cannot work loose or become displaced in ordinary service.

73.18(5) Each hand-powered elevator shall be provided with a brake which shall be capable of stopping and sustaining the car whether loaded or unloaded.

73.18(6) Hand-powered elevators shall not be converted or changed to electric powered unless the complete conveyance is brought into conformity with 875—Chapter 72.

73.18(7) Rescinded IAB 3/7/01, effective 4/11/01.

[ARC 7840B, IAB 6/17/09, effective 7/22/09]

875—73.19(89A) Power-operated special purpose elevators.

73.19(1) Elevators complying with the following requirements may be installed in any structure where the elevator is not accessible to the general public, is used exclusively for designated operating and maintenance employees only, and where transportation of one or two persons is required to attend machinery or equipment frequently.

73.19(2) The inside platform area of the car shall not exceed 9 square feet. The rated speed shall not exceed 100 FPM. The rated load shall not exceed 650 pounds.

73.19(3) Hoistways shall be enclosed to their full width, to a height of not less than 7 feet with solid or perforated noncombustible material braced to deflect not more than 1 inch when subjected to a force of 100 pounds applied horizontally at any point. Open work enclosures shall be at least number 13 steel wire gauge or expanded metal at least number 13 U.S. gauge and shall reject a ball 2 inches in diameter. Where counterweights pass, landing and stairway side shall be of solid construction.

73.19(4) Wiring shall comply with the requirements of the National Electrical Code, ANSI C1-1975 (NFPA 70-1975).

73.19(5) Counterweights shall comply with rule 875—73.11(89A).

73.19(6) Hoistway doors shall comply with subrules 73.2(1), 73.2(7) and 73.2(11).

73.19(7) Cars shall be solidly constructed in accordance with subrules 73.12(1) and 73.12(2).

73.19(8) Car enclosure.

a. Except at the entrance, the car shall be enclosed on all sides and the top. The enclosure at the sides shall be solid or openwork. All openwork shall reject a ball 1 inch in diameter. The enclosure shall be constructed of sufficient strength that it will not deflect more than 1 inch at any one point.

b. There shall be an electric light to illuminate the car or hoistway with the switch placed on or near the operating panel.

c. There shall be no glass used in the elevator car except for the car light.

73.19(9) A car door shall be provided at each car entrance. Door or gate shall guard the complete entrance. The door or gate shall be at least 7 feet high, of metal construction with solid or open construction to reject a ball 1 inch in diameter. A contact switch shall be provided to prevent the operation of the elevator with doors or gates open. The door or gate shall be provided with interlocks.

73.19(10) Guide rails shall comply with rule 875—73.15(89A).

73.19(11) The means and methods of suspension shall comply with subrules 73.13(1), 73.13(5), 73.13(6), 73.13(7), and 73.13(8).

73.19(12) Electrical switches shall comply with subrules 73.7(2) and 73.7(9).

73.19(13) Brakes shall comply with rule 875—73.5(89A).

73.19(14) Emergency signal or communication shall comply with subrule 73.3(11).

[ARC 7840B, IAB 6/17/09, effective 7/22/09]

875—73.20(89A) Inclined and vertical wheelchair lifts. All vertical and inclined wheelchair lifts shall conform to ANSI A17.1 (1981), part XX, sections 2000 and 2001.

875—73.21(89A) Handicapped restricted use elevators. All handicapped restricted use elevators must meet ANSI A17.1 (1981), Part V. Additionally, the elevators shall comply with the following limitations:

1. The elevator shall be used only by a maximum of one disabled person and one attendant at a time. Where a disabled individual cannot operate the elevator in a manner which will ensure access to all operating controls and safety features, an attendant shall accompany the disabled individual.

2. The elevator shall be key-operated and shall not be capable of being called by buttons or switches but may be called by a key operator.

3. Keys to operate the elevator shall be in the control of the disabled person, the attendant or persons in positions of responsibility at the location.

4. A list shall be maintained at the location indicating the persons holding keys for the operation of the elevator.

5. Each landing and the elevator car shall be posted to indicate that the elevator is only for the use of disabled persons.

6. The travel distance of the elevator shall not exceed 50 feet.

[ARC 7840B, IAB 6/17/09, effective 7/22/09; ARC 1971C, IAB 4/29/15, effective 6/3/15]

875—73.22(89A) Escalators.

73.22(1) Each escalator shall be provided with an electrically released mechanically applied brake capable of stopping the up and down traveling escalator with any load up to and including the rated load. The brake shall be located either on the driving machine or on the main drive shaft.

73.22(2) Starting switches shall be of the key-operated type. Starting switches shall be located on or near the escalator.

73.22(3) Emergency stop buttons or other type manually operated switches having red buttons or handles shall be accessibly located at or near the bottom and top landings. The buttons or levers shall be protected to prevent accidental operation.

73.22(4) A broken step-chain device shall be provided on each escalator that will cause interruption of power to the driving machine if a step chain breaks or if excessive sag occurs in either step chain.

73.22(5) Each escalator shall have comb plates at top and bottom landings of the escalator. Comb-plate teeth shall be meshed with and set into slots in the tread surface of the steps so that the points of the teeth are always below the upper surface of the treads.

73.22(6) Each escalator balustrade or moulding on the balustrade shall have a smooth surface. Screwheads shall set flush with the surface or be of the oval head type without any burrs or rough places on their surface.

73.22(7) The clearance on either side of the steps between the step tread and the adjacent skirt panel shall be not more than 3/16 inch.

73.22(8) Step treads shall be illuminated throughout their run. The light intensity shall be not less than 2 foot-candles.

73.22(9) An enclosed fused disconnect switch or circuit breaker arranged to disconnect the power supply to the escalator shall be in each machine room or wherever the controller is located.

73.22(10) A stop switch shall be provided in each machinery space where means of access to the space is provided. The switch when opened shall cause electric power to be removed from the escalator driving-machine motor and brake. The switch shall be of the manually opened and closed type and shall be marked "STOP".

73.22(11) Hand or finger guards shall be provided at the point where the handrail enters the balustrade.

73.22(12) Where the clearance of the upper outside edge of the balustrade and a ceiling or scaffold is less than 12 inches or where the intersection of the outside balustrade and a ceiling or soffit is less than 24 inches from the centerline of the handrail, a solid guard shall be provided in the intersection of the angle of the outside balustrade and the ceiling or soffit. The vertical front edge of the guard shall project a minimum of 14 inches horizontally from the apex of the angle. The escalator side of the vertical face of the guard shall be flush with the face of the wellway. The exposed edge of the guard shall be rounded.

This rule is intended to implement Iowa Code chapter 89A.

875—73.23(89A) Moving walks. Rescinded IAB 6/17/09, effective 7/22/09.

875—73.24(89A) Dumbwaiters. All dumbwaiters whether electric or hand powered shall conform to ANSI A17.1, 1971, section 700. Exceptions: Required rules for hoistway construction as set forth in ANSI A17.1, 1971, shall not apply to existing installations.

875—73.25(89A) Sprinkler retrofits and shunt trip breakers. Rescinded IAB 6/17/09, effective 7/22/09.

875—73.26(89A) Safety bulkheads. Rescinded IAB 6/17/09, effective 7/22/09.

875—73.27(89A) Child entrapment safeguards. This rule applies to a passenger elevator unless it has a car door consisting of a solid panel.

73.27(1) For purposes of this rule, "distance with deflection between the doors or gates" means the distance between the closed car door or gate and the closed hoistway door or gate measured at the greatest perpendicular distance with deflection.

73.27(2) For purposes of this rule, measurements of door or gate deflection shall be made in the manner described by ASME A17.1, section 2.14.4.6.

73.27(3) Door or gate deflection shall not exceed .75 inch.

73.27(4) If the distance with deflection between the doors or gates exceeds 5 inches, a means shall be provided to disable the elevator if a person is in the space between the closed doors or gates.

[ARC 1972C, IAB 4/29/15, effective 6/3/15; ARC 2455C, IAB 3/16/16, effective 4/20/16]

These rules are intended to implement Iowa Code chapter 89A.

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